

CODE OF ORDINANCES CITY OF FERGUSON, MISSOURI

CONTAINING
THE GENERAL ORDINANCES
OF THE CITY

Published in 1985 by Order of the City Council
Republished in 1998



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PREFACE

This Code constitutes a complete recodification of the ordinances of the City of Ferguson, Missouri of a general and permanent nature. As expressed in the Adopting Ordinance, the Code supersedes all such ordinances not included herein or recognized as continuing in force by reference thereto.

Source materials used in the preparation of the Code were the 1973 Municipal Code, as supplemented through August 26, 1983, and ordinances subsequently adopted by the Council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the Comparative Tables appearing in the back of this volume, the reader can locate any section of the 1973 Code, as supplemented, and any subsequent ordinances included herein.

The chapters of the Code are arranged in alphabetical order and the sections within each chapter are catchlined to facilitate usage. Footnotes which tie related sections of the Code together and which refer to relevant provisions of the state law have been included.

Numbering System

The numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two component parts separated by a dash, the figure before the dash representing the chapter number and the figure after the dash indicating the position of the section within the chapter. Thus, the first section of Chapter 1 is numbered 1-1 and the sixteenth section of chapter 8 is 8-16. Under this system, each section is identified with its chapter, and, at the same time, new sections or even whole chapters can be inserted in their proper places, simply by using the decimal system for amendments. By way of illustration: If new material consisting of three sections that would logically come between sections 3-2 and 3-3 is desired to be added, such new sections would be numbered 3-2.1, 3-2.2 and 3-3.3 respectively. New chapters may be included in the same manner. If the new material is to be included between chapters 12 and 13 it will be designated as Chapter 12-5. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject, the next successive number being assigned to the article or division.

Indices

The indices have been prepared with the greatest of care. Each particular item has been placed under several headings, some of the headings being couched in lay phraseology, others in legal terminology, and still others in language generally used by government officials and employees. There are numerous cross references within the indices which stand as guideposts to direct the user to the particular item in which he is interested.

Looseleaf Supplements

A special feature of this Code is the looseleaf system of binding and supplemental service, by which the Code will be kept up-to-date periodically. Upon the final passage of amendatory ordinances, they will be properly edited and the page or pages affected will be reprinted. These new pages will be distributed to holders of copies of the Code, with instructions for the manner of inserting the new pages and deleting the obsolete pages. Each such amendment, when incorporated into the Code, may be cited as a part thereof, as provided in section 5 of the Adopting Ordinance.

The successful maintenance of this Code up-to-date at all times will depend largely upon the holder of the volume. As revised sheets are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publishers that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

The publication of this Code was under direct supervision of George R. Langford, President, Andrew D. Connally, Supervising Editor, and Erin McLaughlin, Linda Davis and Laura Johnson, Editorial Assistants, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publishers are most grateful to James Mello, City Manager; Brenda Love, Assistant to the City Manager; the late Al Nick, former City Attorney; Chester B. Hayes, City Attorney; and Mary Jo Henckler, former City Clerk for preparation of the manuscript of this publication. It is hoped that their efforts and those of the publishers have resulted in a Code of Ordinances which will make the active law of the City readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the City's affairs.

	MUNICIPAL CODE CORPORATION
	Tallahassee, Florida

Bill No. 5475 Ordinance No. 85-2100

Proposed by Administration

Introduced by Council at large

An Ordinance Adopting and Enacting a New Code for the City of Ferguson, Missouri; Establishing the Same; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing for the Manner of Amending and Supplementing Such Code; and Providing When Such Code and This Ordinance Shall Become Effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FERGUSON, MISSOURI as follows:

Section 1. The Code of Ordinances, consisting of Chapters 1 to 32, each inclusive, is hereby adopted and enacted as the "Code of Ordinances of the City of Ferguson, Missouri," which Code shall supersede all general and permanent ordinances of the city adopted on or before February 11, 1985, to the extent provided in section 2 hereof.

Section 2. All provisions of the Code shall be in full force and effect from and after the effective date of this ordinance and all ordinances of a general and permanent nature enacted on final passage on or before February 12, 1985, and not included in the Code or recognized and continued in force by reference therein are hereby repealed from and after such effective date.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this ordinance.

Section 4. Whenever in the Code, or in any ordinance of the city, any act is prohibited or is made or declared to be unlawful or an offense or the doing of any act is required or the failure to do any act is prohibited or declared to be unlawful or an offense or is prohibited and no specific penalty is provided therefor, the state law does not provide otherwise, or for a greater penalty, the violation of any such provision of such Code or ordinance shall be an offense punishable by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment not exceeding four (4) months or by both such fine and imprisonment. Unless specifically provided otherwise, or the context thereof so dictates, each day any violation of any provision of the Code or any ordinance shall continue shall constitute a separate offense.

Section 5. Any and all additions and amendments to the Code, when passed in the form as to indicate the intention of the Council to make the same a part of the Code, shall be deemed to be incorporated in the Code, so that reference to the Code shall be understood and intended to include the additions and amendments.

Section 6. In case of the amendment of any section of the Code for which a penalty is not provided, the general penalty, as provided in section 4 of this ordinance, and in section 1-8 [1-15] of the Code shall apply to the section as amended, or in case the amendment contains provisions for which a penalty, other than the aforementioned general penalty, is provided in another section in the same chapter, the penalty so provided in the other section shall be held to relate to the section so amended, unless specifically repealed therein.

Section 7. All ordinances adopted after February 12, 1985, which amend or refer to ordinances which have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 8. This ordinance and the Code adopted hereby shall be in full force and effect from and after the date of its passage and approval.

First Reading September 10, 1985

Second Reading September 24, 1985

Passed and approved this 24th day of September, 1985.

Mayor

Attest:

City Clerk

Bill No. 6431

Ordinance No. 98-2977

Proposed by Administration

Introduced by Council as a whole

AN ORDINANCE ADOPTING AND ENACTING THE REVISED COMPILATION OF THE CODIFICATION OF THE GENERAL ORDINANCES OF THE CITY OF FERGUSON, MISSOURI; EFFECTIVE WHEN.

WHEREAS, in Ordinance No. 85-2100, passed and approved by the Council of the City of Ferguson on the 24th day of September, 1985, the Code of Ordinances of the City of Ferguson was adopted and enacted all preceding general and permanent ordinances of the City of Ferguson adopted on or before February 11, 1985, to the extent provided therein; and

WHEREAS, the City contracted with Municipal Code Corporation for a re-publication of the Code of Ordinances of the City of Ferguson which was delivered to the City in February, 1998, in the form of a replacement volume which replaced all existing copies of the Code as published through Supplement No. 41 from Municipal Code Corporation; and

WHEREAS, the replacement volume does not repeal any of the previously enacted ordinances of the City of Ferguson, but is a mere reorganization and renumbering of the various chapters previously enacted.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FERGUSON, MISSOURI, as follows:

Section 1. From and after the passage of this ordinance, the replacement volume republished by Municipal Code Corporation in February, 1998, shall replace the previously bound volume of the Code of Ordinances of the City of Ferguson, while not repealing any of the ordinances previously enacted, but providing for the renumbering and reorganization of the previously bound Code of Ordinances of the City of Ferguson.

Section 2. Effective when. This ordinance shall be in full force and effect from and after March 1, 1998.

1st reading March 10, 1998

2nd reading March 24, 1998

Passed and approved this 24th day of March, 1998.

/s/ Steven C. Wegert

Mayor

Attest:

/s/ Dorris S. Carter

City Clerk

SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code and are considered "Included." Ordinances that are not of a general and permanent nature are not codified in the Code and are considered "Omitted."

In addition, by adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the Code's historical evolution.

Ord. No.	Date Adopted	Included/Omitted
Supp. No. 36		
2010-3449	11- 9-10	Included
2010-3450	11- 9-10	Included
Supp. No. 37		
2011-3464	5-10-11	Included
Supp. No. 38		
2008-3361	7-22-08	Included
2012-3485	3-27-12	Included
2012-3486	3-27-12	Included
Supp. No. 39		
2012-3494	6-26-12	Included
2012-3495	6-26-12	Included
2012-3497	8-28-12	Included
Supp. No. 40		
2012-3505	10-16-12	Included
2012-3506	11-13-12	Included
2012-3510	12-11-12	Included
2013-3511	1- 8-13	Included

2013-3512	1- 8-13	Included
2013-3513	1- 8-13	Included
Supp. No. 41		
2012-3504	10-16-12	Included
2013-3515	2-12-13	Included
2013-3516	2-12-13	Included
2013-3521	3-26-13	Included
2013-3522	3-26-13	Included
2013-3524	5-28-13	Included
2013-3525	5-28-13	Included
2013-3526	5-28-13	Included
2013-3527	5-28-13	Included
2013-3529	6-11-13	Included
Supp. No. 42		
2013-3541	12-10-13	Included
2013-3542	12-10-13	Included
2013-3546	2-11-14	Included
Supp. No. 43		
2014-3553	5-27-14	Included
2014-3555	6-10-14	Included
Supp. No. 44		
2014-3563	9-23-14	Included
2014-3564	9-23-14	Included

2014-3566	9-23-14	Included
Supp. No. 45		
2015-3571	1-27-15	Included
Supp. No. 46		
2015-3572	2-10-15	Included
2015-3582	5-26-15	Included

PART I - CHARTER^[1]

In order to provide for the government of the City of Ferguson and secure the benefits and advantages of constitutional home rule under the Constitution of the State of Missouri, the people of Ferguson adopt the following charter:

Footnotes:

--- (1) ---

Editor's note—*Printed herein is the home-rule Charter of the City of Ferguson, adopted by the qualified voters of the city in an election held on February 3, 1998. The Charter is set out as originally adopted. Amendments to the Charter are indicated by the presence of a history note in parentheses () following the section amended. The absence of such a note indicates that a section has remained unchanged since it was originally adopted.*

ARTICLE I. - INCORPORATION, NAME AND BOUNDARIES; FORM OF GOVERNMENT

Section 1.1 - Incorporation, Name and Boundaries; Form of Government

The inhabitants of the City of Ferguson, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the City of Ferguson, and the form of government shall be Council-Manager.

ARTICLE II. - POWERS

Section 2.1 - Powers

The city shall have all powers which the General Assembly of the State of Missouri has authority to confer upon any city, provided such powers are consistent with the Constitution of this state and are not limited or denied either by this charter or by statute. The city shall, in addition to its home rule powers, have all powers conferred by law.

State Law reference— Similar provisions, Mo. Const. Art. VI, Sec. 19(a).

Section 2.2 - Construction

The powers of the city shall be liberally construed. The specific mention of a particular power in this charter shall not be construed as limiting the powers of the city.

The original arrangement, catchlines, and subcatchlines of the Charter have been retained herein. Material which has been added for clarity is indicated by brackets []. Obvious errors in spelling and punctuation have been corrected without notation.

ARTICLE III. - THE COUNCIL^[2]

Footnotes:

--- (2) ---

Code reference—The council, § 2-21 et seq.

Section 3.1 - Powers vested

Except as this charter provides otherwise, all powers of the city shall be vested in the council. The council shall provide for the exercise of these powers and the performance of all duties and obligations imposed on the city by law.

Section 3.2 - Composition, Eligibility, Election and Terms

3.2.1 Composition

The council shall consist of seven persons. One, known as Mayor, shall be elected by the qualified voters of the city as a whole. The remaining six, known as Council Members, shall be elected by the qualified voters of their respective wards as provided in Article VII.

3.2.2 Eligibility

All council members and the mayor shall be qualified voters of the city. The council members elected by wards shall be residents of the wards from which they are elected during their entire term of office. No person shall qualify as a candidate for Mayor or Council member who has been convicted of or found guilty of or pled guilty to a felony under the laws of this state or of the United States.

3.2.3 Election and Terms

Council members shall be elected for terms of three years and the mayor shall be elected for a term of three years as provided in Article VII and each shall serve until a successor shall be elected and qualified except as otherwise provided herein. No council member may serve more than three (3) consecutive three-year terms, and the mayor shall not serve more than three (3) consecutive three-year terms, subject to Exceptions 1—3 below.

EXCEPTION 1 — Except as provided in the 2008 transition provisions, any council member who is appointed or elected to an unexpired term shall not serve for more than two (2) additional three-year terms, and any mayor who is elected or appointed to an unexpired term shall not serve for more than two (2) additional three-year terms.

EXCEPTION 2 — In the event any council member or mayor shall resign prior to the expiration of the term to which that person was appointed or elected, that person shall be considered as having served for the maximum number of terms allowed herein for such office, and shall

not be eligible to again serve in the same office from the same ward until at least 350 days have elapsed between the expiration of the term being served and the date of the next election for the position that person is seeking.

The transition after passage in 2008 shall operate as set forth as follows. The Council Members elected for two-year terms in 2007 shall serve the remainder of the term and those seats shall be elected for three-years terms in 2009. The Council Members elected for two-year terms in 2008 shall serve those terms and then those Council seats will be elected for three-year terms in 2010. The Mayor was elected for a three year term in 2008 and the Mayor's position shall be elected for a three-year term in 2011. Any Council member who was appointed to fill a vacancy prior to 2008 and then elected in 2008 for a two-year term shall be eligible to serve three full terms and shall, therefore, be eligible for election in 2008, 2010, and 2013.

(Ord. No. 2008-3334, §§ 1, 2, 1-22-08, ratified 4-8-08; Ord. No. 2008-3335, §§ 1, 2, 1-22-08, ratified 4-8-08)

Section 3.3 - Honorarium.

The honorarium for members of the council shall be two hundred fifty dollars (\$250.00) per month. The honorarium for the Mayor shall be three hundred fifty dollars (\$350.00) per month. The effective date thereof shall be the date of commencement of the term of a council or mayor which commences following the effective date of this section.

(Ord. No. 2008-3336, §§ 1, 2, 1-22-08, ratified 4-8-08)

Section 3.4 - Prohibitions

3.4.1 Holding Other Office

Except where required by law, or pursuant to an agreement between the city and another entity of government, no council member or mayor shall hold any other Ferguson city office or employment during the term for which the person was elected to the council, and no former mayor or council member shall hold any compensated appointive city office or employment until one year after the expiration of the term for which the person was elected to the council. Except where required by law, or pursuant to an agreement between the city and another entity of government, no council member or mayor shall hold any other elective office of any political subdivision whose boundaries, powers, or duties overlap those of the city of Ferguson.

3.4.2 Appointments and Removals

Neither the council nor any of its members shall in any manner dictate the appointment or removal of any city administrative officer or employee who the manager or any of the manager's subordinates are empowered to appoint, but the council may express its views and fully and freely discuss with the manager anything pertaining to appointment and removal of such officer or employee.

3.4.3 Interference with Administration

Except for the purpose of investigations under Section 3.9 and inquiries, the council and its members shall deal with all city officers and employees who are subject to the direction and supervision of the manager solely through the manager. Neither the council nor its members shall give orders, directions, or

instructions to any such officer or employee, either publicly or privately. This section shall not be interpreted to prevent social interaction between council members and officers and employees.

(Ord. No. 2008-3337, §§ 1, 2, 1-22-08, ratified 4-8-08)

Section 3.5 - Vacancies, Forfeiture of Office, Filling of Vacancies

3.5.1 Vacancies

The office of a council member or mayor shall become vacant upon that person's death, resignation, removal from office in any manner authorized by law, or forfeiture of the office.

3.5.2 Forfeiture of Office

A council member or the mayor shall forfeit office if that person a) lacks at any time during the term of office any qualification for the office prescribed by this charter or by law, b) violates any express prohibition of this charter, c) is convicted of a crime involving moral turpitude, d) fails to pay within thirty (30) days after demand any tax or other amount due the city, or e) fails to attend three consecutive regular meetings of the council without being excused by the council.

3.5.3 Filling Vacancies

Vacancies in the offices of any council member shall be filled by the remaining council members, excluding the mayor, within thirty (30) days of the effective date of the occurrence of the vacancy. If the council members fail to fill a vacancy within thirty (30) days, then the vacancy will be filled by the mayor. In the case of a vacancy in the office of mayor, the mayor pro tempore shall fill the vacancy until the next possible regular or special election. If a special election cannot be held prior to January 1 of the year in which the mayor's term expires, then the mayor pro tempore will serve until the regular election in the year in which the mayor's term expires.

Section 3.6 - Judge of Qualifications

The council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths, and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand. Decisions made by the council under this section shall be subject to review by a court of proper jurisdiction and the procedures to be used under this section shall be governed by Chapter 536. Administrative Procedure and Review, of the Revised Statutes of Missouri.

Section 3.7 - Mayor

The mayor shall have no regular administrative duties. The mayor shall preside at all meetings of the council and shall be recognized as head of the city government for all legal and ceremonial purposes and by the Governor for purposes of military law. The mayor shall have the same right to vote as any other member of the council, except as provided in section 3.5.3, but shall have no veto power.

The council shall also elect from among the council members a mayor *pro tempore* who shall act in the absence of the mayor. If a vacancy should occur in the office of mayor, the mayor *pro tempore* shall serve as mayor until the vacancy shall be filled as provided in Section 3.5.

Section 3.8 - City Clerk

The council shall appoint a city clerk. The city clerk shall give notice of council meetings, keep the minutes of council proceedings, authenticate by signature all ordinances and resolutions and record them in a permanent record kept for that purpose. The city clerk shall perform such other duties as may be required by law, by this charter, or by the council. The city clerk shall hold office at the pleasure of the council.

Code reference—City clerk, § 2-76 et seq.

Section 3.9 - Investigations

The council by ordinance may make investigations into the affairs of the city and the conduct of any city department, officer or agency and for this purpose shall be deemed to have the powers listed in Section 3.6. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the council shall be guilty of a misdemeanor.

Section 3.10 - Independent Audit

The council shall provide for an independent audit of all city accounts at least annually. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the city government or any of its officers. A copy of the report prepared by the certified public accountant or firm of such accountants shall be kept in the office of the city clerk and shall be open to public inspection.

Section 3.11 - Legislative Proceedings

3.11.1 Meetings

The council shall meet regularly at such times as prescribed by its rules but not less frequently than once each month. Conditions governing the calling of additional or special meetings shall also be specified by ordinance in the council rules.

All meetings shall be open to the public except as provided by state statutes. No action by the council shall have legal effect unless the motion for the action and the vote by which it is disposed of take place at proceedings open to the public.

The first meeting of the council following each regular election shall be held on the third Tuesday of the month in which the election is held, and at this meeting, the newly-elected council members and/or mayor shall be inducted into office.

State Law reference— Notice of meetings, RSMo 610.020, closed meetings, RSMo 610.021.

3.11.2 Rules and Permanent Record

The council shall determine and ordain its own rules and order of business. It shall cause a permanent record of its proceedings to be kept and this permanent record shall be open to public inspection.

3.11.3 Voting

Except as otherwise specified in this charter or by ordinance, the affirmative vote of a majority of the entire council shall be necessary to adopt any ordinance, resolution or motion. The ayes and nays on any question shall, at the request of any member, be entered in the permanent record, and the ayes and nays shall be recorded on the final passage of every ordinance or resolution.

3.11.4 Form of Ordinances

Every ordinance shall be by bill, which shall be in writing or printed form and the enacting clause shall be: BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FERGUSON. The enacting clause of all ordinances submitted by initiative shall be: BE IT ORDAINED BY THE PEOPLE OF THE CITY OF FERGUSON.

No bill, except those making appropriations and those codifying or rearranging existing ordinances, shall relate to more than one subject, which shall be clearly expressed in the title. Ordinances making appropriations shall be confined to the subject matter of the appropriation.

3.11.5 Procedure

All bills shall have two readings before final passage, and, except in the case of emergency bills, not more than one reading shall be at the same legislative session and at least one week shall elapse between the introduction and the final passage of any bill. Unless requested by a majority of the council that a bill be read in its entirety, it shall be read by its title only.

Every bill introduced shall be filed with the city clerk and posted in a public place three days prior to its first reading and shall remain on file in the clerk's office for public inspection until it is finally adopted or fails of passage.

Prior to the final passage of any bill other than an emergency bill, all interested persons shall be given an opportunity to be heard before the council in accordance with such rules and regulations as the council may adopt.

After the second reading of any bill and compliance with the other provisions herein, the council may finally pass the bill with or without amendment; except that if the council shall make an amendment which constitutes a change in substance, the bill as amended shall be filed in the office of the city clerk for one additional week and an opportunity afforded for a further public hearing, after which final action may be taken.

3.11.6 Emergency Ordinances

An ordinance may be passed as an emergency measure on the day of introduction of the bill provided that it contains the statement that an emergency exists and specifies the nature of the emergency. No ordinance granting, enlarging, or affecting any franchise shall be passed as an emergency measure. Emergency ordinances shall be restricted to the following:

1. Bills concerning the immediate preservation of public peace, property, health, safety or morals.
2. Appropriations for the payment of principal or interest on the public debt.
3. Appropriations for the payment of current expenses of the city government or payment of compromise settlement of damage claims upon recommendation of the city attorney.
4. Bills providing the issuance of bonds pursuant to an election.

The affirmative vote of five (5) members of the council shall be required to pass an emergency ordinance.

3.11.7 Authentication and Recording

An ordinance, when passed by the council, shall be signed by the presiding officer and attested by the city clerk and shall be immediately filed and thereafter preserved in the office of the city clerk.

State Law reference— Attestation of ordinances, RSMo 82.200.

3.11.8 Effective Date

Unless otherwise specified, every ordinance shall become effective twenty days after its final passage. If an ordinance is submitted at a referendum election or as a result of initiative petition, it shall become effective upon the declaration of the council, after canvassing the election returns, that it has received the favorable vote of a majority of those voting.

ARTICLE IV. - THE CITY MANAGER^[3]

Footnotes:

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Code reference—City manager, § 2-61 et seq.

Section 4.1 - Qualifications: Term of Office

The city manager shall be chosen by the council on the basis of executive and administrative qualifications with special reference to experience in or knowledge of municipal administration. The city manager may or may not be a resident of the city or the state at the time of selection, but shall reside within the city during the tenure of office. The city manager shall be appointed for an indefinite term, subject to removal as herein provided, and shall devote full time to the duties of the office, except with special permission by council. The city manager may reside outside the city while in office only with the approval of the council.

Section 4.2 - Acting City Manager

By letter filed with the city clerk, the manager shall designate, subject to approval of the council, a qualified city administrative officer to exercise the powers and perform the duties of manager during any temporary absences or disability. During such absence or disability, the council may revoke such designation at any time and appoint another officer of the city to serve until the manager shall return or the disability shall cease.

Section 4.3 - Compensation

The city manager shall receive such compensation as may be fixed by ordinance.

Section 4.4 - Powers and Duties

The city manager shall be the chief executive and administrative officer of the city and shall be responsible to the council for the proper administration of the affairs of the city. To that end, the city manager shall have power and be required to:

a)

Appoint, and when necessary for the good of the service, remove all officers and employees of the city, except as otherwise provided in this charter and except as the manager may authorize the head of a department or office to appoint and remove subordinates in the department or office; provided, however, that the City Council may remove the City Attorney upon the affirmative vote of five members of the Council. Preference shall be given in making appointments to residents of the City of Ferguson when their qualifications are at least equal to those of any other applicant.

- b) Direct and supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by this charter or by law.
- c) Prescribe the powers and duties of officers and employees of the city not otherwise prescribed by this charter or by ordinance. The city manager may assign particular officers and employees to one or more of the departments; require an officer or employee to perform duties in two or more departments; and make such other administrative rules and regulations as may be necessary or proper for the efficient and economical conduct of the business of the city.
- d) Prepare the budget annually and submit it to the council and be responsible for its administration after adoption.
- e) Prepare and submit to the council, as of the end of the fiscal year, a complete report of the finances and administrative activities of the city for the year.
- f) Keep the council advised of the financial condition of the city and make recommendations concerning its future needs.
- g) Attend all meetings of the council and, insofar as possible, those of its committees, except when the council may be considering removal of the city manager. The city manager shall have the right to take part in discussions, but shall have no power to vote. The city manager shall receive notices of all special meetings.
- h) Enforce all laws and ordinances and see that all contracts and franchises are faithfully performed.
- i) Perform all other duties prescribed by this charter or required by the council, if not inconsistent with this charter.

(Ord. No. 2008-3341, §§ 1, 2, 1-22-08, ratified 4-8-08)

Section 4.5 - Procedure for Removal

The city manager may be suspended by a resolution which has received an affirmative vote of a majority of all the members of the council. This resolution shall set forth the reasons for the manager's suspension and proposed removal and may suspend the city manager for a period not exceeding forty-five days. A copy of such resolution shall be served immediately upon the city manager. The city manager shall have fifteen days in which to reply in writing, and if so requested in the reply, shall be afforded a public hearing not earlier than ten days nor later than fifteen days after the hearing is requested; the resolution for suspension shall be made public ten days prior to the hearing.

After the public hearing is requested, and after full consideration, the council by majority vote of its members may adopt a final resolution of removal. The manager shall continue to receive salary and benefits until the effective date of a final resolution of removal or other termination date as subject to contractual agreement.

The action of the council in suspending or removing the manager shall not be subject to review by any court or agency.

(Ord. No. 2008-3338, §§ 1, 2, 1-22-08, ratified 4-8-08)

ARTICLE V. - ADMINISTRATIVE ORGANIZATION AND PERSONNEL SYSTEM^[4]

Footnotes:

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Code reference—Administration generally, Ch. 2.

Section 5.1 - Administrative Organization

The council shall adopt by ordinance an administrative code providing a complete plan of organization and structure for the city government. The administrative code may authorize the city manager to promulgate regulations dealing with the questions of organization and structure. The administrative code and any regulations promulgated pursuant thereto shall be consistent with this charter. Unless otherwise required by law, all boards and commissions provided for in the administrative code shall be appointed by the council.

The administrative code shall provide for at least the following departments: Finance, Fire, Police, Law, including Municipal Court, Parks and Recreation, and Public Works; and the following boards and commissions: Board of Adjustment, Library Board, Planning Commission, Personnel Board and Traffic Commission. Provision shall also be made for the appointment or removal of trustees of the Library Board and any other interactions of the city with the Library District as shall be authorized by law.

Additional departments, boards and commissions may be created by ordinance. Two or more departments may be headed by the same person, directors of departments may serve as chiefs of divisions, and the city manager may head one or more departments.

Section 5.2 - Personnel System

The council shall adopt by ordinance a personnel code providing a comprehensive personnel system, including a human resources structure or component, for city officers and employees. The personnel code shall provide that all appointments and promotions of city officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence. The personnel code may authorize the city manager or the personnel board to promulgate regulations dealing with personnel matters. The personnel code and any regulations promulgated pursuant thereto shall be consistent with this charter.

(Ord. No. 2008-3339, §§ 1, 2, 1-22-08, ratified 4-8-08)

Code reference—Personnel, § 2-561.

Section 5.3 - Administrative Officers Not to Engage in Political Activity

Neither the city manager nor any person holding an administrative office or position under the city manager's supervision shall be a candidate for mayor or city council member or engage, directly or indirectly, in sponsoring, electioneering or contributing money or other things of value for any person who is a candidate for mayor or council. All such persons shall retain the right to vote as they choose and to express their opinions on all political subjects. Any person violating the provisions of this section shall be removed in the manner provided in the personnel code.

ARTICLE VI. - FINANCIAL PROCEDURES^[5]

Footnotes:

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Code reference—Finance, § 2-631 et seq.

State Law reference— Local government finances, Mo. Const. Art. VI, Secs. 23—29; municipal budgets, RSMo 67.010 et seq.; financial administration and indebtedness, RSMo Ch. 95.

Section 6.1 - Fiscal Year

The fiscal year of the city shall, unless otherwise provided by ordinance begin on the first day of July and end on the last day of June of the following calendar year. Such fiscal year shall also be the budget year.

Section 6.2 - Submission of Tentative Budget and Budget Message

At least sixty days prior to the beginning of each fiscal year, or at such time in each year as shall be fixed by the council, the city manager shall submit to the council a tentative budget with an explanatory message. For the purpose of preparing this budget and explanatory message, the head of each office, department, or agency shall supply the city manager with detailed estimates of revenues and expenditures of that office, department, or agency and present an estimate of all capital projects pending and of those which it is recommended should be undertaken a) within the budget year and b) within the next five succeeding years.

In preparing the budget the city manager shall review and may revise these estimates as deemed necessary.

Section 6.3 - Budget

The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the manager deems desirable or the council may require. This operating budget shall indicate in separate sections:

- a) Proposed expenditures for current operations during the ensuing fiscal year and the method of financing such expenditures;
- b) Proposed capital expenditures during the ensuing fiscal year and the proposed method of financing such capital expenditures;
- c) A statement of the amount required for the payment of interest amortization, and redemption charges on the debt of the city along with the amount of contingent liabilities that may become due with respect to any debt of the City, including, but not limited to borrowings providing for an "interest rate swap";
- d) Provisions for a general contingent fund in an amount not to exceed five percent of the total operating expenditures proposed under Section 6.2 to be allocated to any department, office, or agency at the discretion of the city manager;
- e) A general budget summary; and
- f) Such other information as the city manager may deem essential, or as may be required by ordinance or law.

The total of proposed expenditures shall not exceed the total of estimated income of the city plus any estimated unencumbered balance remaining in the treasury at the close of the fiscal year.

(Ord. No. 2008-3340, §§ 1, 2, 1-22-08, ratified 4-8-08)

State Law reference— Contents of budgets, RSMo 67.010.

Section 6.4 - Capital Program

6.4.1 Submission to Council

The city manager shall prepare and submit a five-year capital program at least six months prior to the final date for submission of the operating budget.

6.4.2 Contents

The capital program shall include:

- a) A clear general summary of its contents;
- b) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
- c) Cost estimates, method of financing and recommended time schedules for each improvement; and
- d) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Section 6.5 - Council Action on Budget

6.5.1 Notice and Hearing

The council shall publish in one or more newspapers of general circulation in the city, a general summary of the budget and a notice stating:

- a) The times and places where copies of the message and budget are available for inspection by the public; and
- b) The time and place, not less than two weeks after such publication, for a public hearing on the budget.

6.5.2 Amendment Before Adoption

After the public hearing, the council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income plus any unencumbered fund reserves.

6.5.3 Adoption

The budget shall be adopted by the favorable vote of not less than a majority of the entire council not later than the last day of the month preceding the first month of the budget year. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be

deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the council adopts a budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated.

State Law reference— When budget for preceding year to govern, RSMo 67.070.

Section 6.6 - Council Action on Capital Program

6.6.1 Notice and Hearing

The council shall publish in one or more newspapers of general circulation in the city a general summary of the capital program and a notice stating.

- a) The times and places where copies of the capital program are available for inspection by the public; and
- b) The time and place, not less than two weeks after such publication, for a public hearing on the capital program.

6.6.2 Adoption

The council shall adopt the capital program with or without amendment after the public hearing and on or before the last day of the month preceding the first month of the budget year.

Section 6.7 - Public Records

Copies of the budget and the capital program as adopted shall be public record and shall be made available to the public at suitable places in the city.

Section 6.8 - Tax Rates

The council shall by ordinance set the tax rates and levies on the various sources of revenue where not otherwise established by law. The rates and levies so set shall be certified by the city clerk to the director of finance, who shall make such arrangements as may be necessary for their collection.

Code reference—Taxation generally, Ch. 42.

6.8.1 Remitting of Taxes Prohibited

No general or special tax or assessment shall be remitted or abated or the right to enforce payment thereof released, except in correction of error.

Section 6.9 - Amendments After Adoption

6.9.1 Supplemental Appropriations

If, during the fiscal year, the manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the council by resolution may make supplemental appropriations for the year up to the amount of such excess.

6.9.2 Reduction of Appropriations

If at any time during the fiscal year it appears probable to the manager that the revenues available will be insufficient to meet the amount appropriated, the manager shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken by the manager and the manager's recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by resolution reduce one or more appropriations.

6.9.3 Transfer of Appropriations

At any time during the fiscal year, the manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the manager, the council may by resolution transfer part or all of any unencumbered appropriation balance from one department, office or agency, to another.

State Law reference— Similar provisions, RSMo 67.050.

6.9.4 Emergency Appropriations; Effective Date

The supplemental appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption and may be made by adoption of a resolution in accordance with the provisions of Section 3.11.6.

Section 6.10 - Sale of Bonds

Except as otherwise required by law or this charter, all general obligation bonds issued by the city shall be sold at public sale upon sealed proposals. At least ten days prior to the date of sale, the director of finance shall give notice by direct mail and by such further advertising as the council may direct to all parties and financial institutions who in the director's opinion may be interested in the purchase of such bonds or who shall make written application for them.

Section 6.11 - Issuance of Refunding Bonds

For the purpose of refunding, extending, and unifying the whole or any part of its valid outstanding bonds, the city may issue refunding bonds, not exceeding in amount, the principal of the outstanding bonds to be refunded and the accrued interest to the date of such refunding bonds. The council shall provide for the payment of interest at not to exceed the highest rate permitted by law and of the principal of such refunding bonds in the same manner as was provided for the payment of interest and principal of the bonds refunded.

ARTICLE VII. - ELECTIONS AND NOMINATIONS^[6]

Footnotes:

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State Law reference— *Suffrage and elections, Mo. Const. Art. VIII; election authorities and conduct of elections, RSMo Ch. 115; municipal elections, RSMo Ch. 122.*

Section 7.1 - City Elections

7.1.1 Regular Elections

The regular city election shall be held annually on the first Tuesday following the first Monday in April. Voters shall choose council members from each ward on a staggered basis so that both members from the same ward are not elected for regular, full terms in the same year. The council members and mayor shall be elected at intervals as established in Section 3.2.3. Except as otherwise provided, council vacancies shall also be filled at regular or special elections, and the council may direct that other matters be referred to the voters of the city at that time.

State Law reference— Designation of municipal election day, RSMo 115.121(3).

7.1.2 Special Elections

The council may by resolution order special elections, fix the time for such elections and provide for holding such elections.

7.1.3 Conduct of Elections

The council shall provide by ordinance, not inconsistent with the charter or state statutes all regulations which it considers needful or desirable for the conduct of municipal elections, for the prevention of fraud in elections and for the recount of ballots in case of doubt or fraud. Unless otherwise provided by law, the city clerk shall conduct the municipal elections or, in the clerk's absence or disability, this shall be done by an alternate named by the council. The council may direct the city clerk to employ the facilities of another governmental agency for the preparation of ballots or recorder sheets, the establishment and staffing of polling places, the collection, counting and tabulation of votes or other such services appropriate to the election.

7.1.4 Provision if Council Fails to Act

If, for any reason, officers of the city fail to order and conduct an election at the time specified in this charter, any registered voter of the city may appeal to the circuit court having jurisdiction of civil cases in the county for legal recourse to effect the election.

(Ord. No. 2008-3335, §§ 1, 2, 1-22-08, ratified 4-8-08)

Section 7.2 - Nominations

7.2.1 Nominating Petition

Nominations for the council shall be made by petition signed by not less than fifty nor more than seventy-five registered voters who are entitled to vote for the candidate so nominated. No voter shall sign more than one nominating petition for the same office, and should a voter do so, his signature shall be void except as to the first filed of the petitions signed by him for the office concerned. Each signer shall indicate residence, giving the street and number. Each petition shall be verified by the oath of some responsible person, before an officer competent to administer oaths, that each signature thereon is the genuine signature of the person whose name it purports to be and that it was signed in the circulator's presence.

The council by ordinance shall designate the appropriate form for nominating petitions and for acceptance of nomination.

Code reference—Form of nominating petition, § 2-23.

7.2.2 Filing and Acceptance

All separate papers comprising a nominating petition shall be assembled and filed with the city clerk during the time specified by state law. The city clerk shall make a record of the exact time when each petition is filed.

No nominating petition shall be accepted unless accompanied by a signed acceptance of the nomination and a deposit of ten dollars. The deposit shall be returned to the depositor if the candidate becomes ineligible or withdraws the candidacy by filing a notice of withdrawal with the city clerk not less than forty-five days before the date of the election or if the candidate polls at least five percent of the votes cast for the office for which that person is a candidate. Any deposits not refunded shall be paid into the general revenue fund of the city.

7.2.3 Procedure After Filing

Within seven days after the closing date for filing a nominating petition, the city clerk shall notify the candidate and the person who filed the nominating petition whether or not it is sufficient. If the petition is found to be insufficient, the city clerk shall return it immediately to the person who filed it with a statement certifying wherein the petition is insufficient. Not later than 5:00 P.M. CST, fifty-five days prior to the date of election a new or supplemental petition may be filed for the same candidate. The petition of each candidate nominated to be a member of the council shall be preserved until the expiration of the term of office for which he has been nominated.

State Law reference— Municipal authority to prescribe nominating, RSMo 82.180.

Section 7.3 - Preparation for Election

Unless otherwise provided by law, the city clerk shall be responsible for having ballots prepared and distributed among the various polling places or for making the necessary arrangements with another governmental agency for handling the city election as described in Section 7.1.3. Mechanical electronic or other devices for voting or counting the votes may be used in connection with city elections.

Section 7.4 - Determination of Election Results

7.4.1 Returns; Canvass

The council shall canvass the election returns and declare the results of any municipal election, whether regular or special, at a meeting to be held not later than two weeks following the election. The candidate receiving the highest number of votes for each office shall be declared elected and inducted into office at the meeting held on the third Tuesday of the month in which the election is held.

7.4.2 Tie Vote

If, at any municipal election, two or more candidates for the same office shall receive an equal number of votes and a greater number than any other candidate, the council shall proceed to determine the election by lot from among those having the same number of votes in a meeting open to the public and to which all candidates have been invited.

Section 7.5 - Oath of Office

Before entering upon the duties of office, every officer of the city shall file with the city clerk a certificate of election or appointment, and shall take and subscribe before, and file with, the city clerk, an oath or affirmation that the person possesses all the qualifications for the office to which he, is chosen, that the person is not subject to any of the disqualifications set forth in this charter, that the person will support the Constitution and laws of the United States and of the State of Missouri and the Charter and ordinances of the City of Ferguson, and that the person will faithfully discharge the duties of the office.

Section 7.6 - Wards

7.6.1 Number and Boundaries

The city shall be divided into three wards containing an approximately equal number of people. The boundaries of the wards shall be as they presently exist or as they may hereafter be changed by the council. Ward boundaries shall be reviewed and, if necessary, redefined after each decennial census to maintain, as nearly as possible, an equal number of inhabitants in each ward.

7.6.2 Redistricting Commission

On or before the first day of November, 2002, and every ten years thereafter, the mayor shall appoint with the approval of the council a redistricting commission consisting of three registered voters, one from each ward, who shall not be officers or employees of the city.

The redistricting commission shall ascertain from the National Decennial Census Figures whether the wards contain approximately equal number of inhabitants and shall, if it finds substantial inequalities, recommend changes in ward boundaries to equalize as nearly as possible the number of inhabitants in each ward.

The commission shall make its report to the council by filing a copy, signed by all members with the city clerk not later than the second day of January following the date of their appointment. The council, after holding a public hearing, shall take final action on these recommendations not later than the first day of February following their receipt. The council may reject, adopt or alter the recommendations of the commission.

If the council fails to take final action on the recommendations of the redistricting commission by the date specified above, such recommendations shall become effective without council action. Any changes in ward boundaries made pursuant to this section shall be effective for the following April election and for each succeeding election until changed in accordance with the provisions of this Charter.

State Law reference— Redistricting constitutional charter cities, RSMo 82.110 et seq.

ARTICLE VIII. - INITIATIVE; REFERENDUM AND RECALL

Section 8.1 - General Authority

8.1.1 Initiative

The qualified voters of the city shall have power to propose ordinances to the council and, if the council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election, provided that such power shall not extend to the budget or capital program or any ordinance

relating to appropriation of money, levy of taxes, or salaries of city officers or employees. No proposed initiative ordinance shall contain more than one subject which shall be clearly expressed in its title.

8.1.2 Referendum

The qualified voters of the city shall have power to require reconsideration by the council of any adopted legislative ordinance and, if the council fails to repeal an ordinance so reconsidered, to approve or reject it at a city election, provided that such power shall not extend to the budget or capital program, any emergency ordinance, any ordinance levying a special assessment or providing for the issuance of special tax bills, or any ordinance relating to appropriation of money or levy of taxes, or any administrative ordinance.

8.1.3 Recall

The qualified voters of the city shall have the power to initiate the recall of any appointed or elected council member or elected mayor and to dismiss or retain such council member or mayor by a city election. No council member or mayor shall be subject to recall within six months of induction into office nor during the last six months of the term. If retained in office by a recall election, the council member or mayor shall not be subject to recall within a period of six months thereafter.

Section 8.2 - Commencement of Proceedings; Petitioners' Committee; Affidavit

Any five qualified voters may commence initiative, referendum or recall proceedings by filing with the city clerk an affidavit stating that they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance or officer sought to be reconsidered or recalled.

Section 8.3 - Petitions

8.3.1 Number of Signatures

Initiative and referendum petitions must be signed by qualified voters of the city equal in number to at least ten percent of the total number of qualified voters registered to vote at the last regular city election. Recall petitions must be signed by fifteen percent of the total number of registered voters eligible to vote for such officer at the last election for such office.

8.3.2 Form and Content

All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered. Recall petitions shall state the name of the subject officer and the grounds for removal.

8.3.3 Affidavit of Circulator

Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that the person personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in the circulator's presence, that the circulator believes them to be the

genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be considered or the grounds for recall.

8.3.4 Time for Filing Referendum Petitions

Referendum petitions must be filed within thirty days after adoption by the council of the ordinance sought to be reconsidered.

Section 8.4 - Procedure After Filing

8.4.1 Certificate of Clerk; Amendment

Within twenty days after a petition is filed, the city clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk within two days after receiving the copy of his certificate and files a supplementary petition upon additional papers within ten days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of Subsections 8.3.2 and 8.3.3, and within five days after it is filed, the clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request council review under Subsection 8.4.2 within the time required, the clerk shall promptly present the certificate to the council and the certificate shall then be a final determination as to the sufficiency of the petition.

8.4.2 Council Review

If an initiative or referendum petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two days after receiving the copy of such certificate, file a request that it be reviewed by the council. The council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the council's determination shall then be a final determination as to the sufficiency of the petition.

8.4.3 Court Review; New Petition

A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

Section 8.5 - Referendum Petitions; Suspensions of Effect of Ordinance

When a referendum petition is filed with the city clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when a) there is a final determination of insufficiency of the petition, b) the petitioners' committee withdraws the petition, c) the council repeals the ordinance or d) the results of the election are certified.

Section 8.6 - Actions on Petitions

8.6.1 Action by Council

When an initiative, referendum or recall petition has been finally determined sufficient, the city clerk shall submit it to the council without delay and, in the case of a recall, council shall fix a date for an election in accordance with Subsection 8.6.2. The council shall promptly consider any proposed initiative ordinance in the manner provided in Article III or reconsider any referred ordinance by voting its repeal. If the council fails to adopt a proposed initiative ordinance without any change in substance within sixty days or fails to repeal the referred ordinance within thirty days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the city.

8.6.2 Submission to Voters

The vote of the city on a proposed or referred ordinance shall be held not less than thirty days and not later than one hundred eighty days from the date of the final council vote thereon. Recall elections shall be held at the next appropriate election date complying with state law but not less than thirty days nor more than forty-five days after a sufficient petition has been submitted to the council.

If no regular city election is to be held within the period prescribed in this subsection, the council shall provide for a special election within ninety days or less if required; otherwise the vote shall be held at the same time as such regular election, except that the council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance or the grounds for recall shall be made available at the polls.

If the office subject to recall becomes vacant prior to the election, the election shall be canceled and the vacancy filled as provided in Article III of this charter.

Section 8.7 - Withdrawal of Petition

An initiative, referendum or recall petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the city by filing with the city clerk a request for withdrawal signed by a majority of the members of the petitioners' committee. Upon filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Section 8.8 - Results of Election

8.8.1 Initiative

If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind as if adopted by the council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

8.8.2 Referendum

If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

8.8.3 Recall

If a majority of the qualified electors voting on a recall shall vote in favor of it, then a vacancy shall exist regardless of any defect in the recall petition. Such vacancy shall be filed as provided in Article III of this charter.

If a majority of those voting in the election shall vote against the recall, the official shall continue in office. An official who has been recalled shall be ineligible to serve in any city office during the remainder of the term for which he was originally elected.

ARTICLE IX. - FRANCHISES^[7]

Footnotes:

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Code references—Cable television regulations, Ch. 9; utilities, Ch. 45.

State Law reference— *Municipal authority regulate franchises, RSMo 82.230.*

Section 9.1 - Granting of Franchises

All public utility franchises and all renewals, extensions and amendments thereof shall be granted only by ordinance. No such ordinance shall be adopted within less than thirty days after application thereof has been filed with the council, nor until a full public hearing has been held thereon. No exclusive franchises shall ever be granted, and no franchise shall be granted for a longer term than twenty years. No such franchise shall be transferable directly or indirectly, except with the approval of the council.

Section 9.2 - Right of Franchise

All public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the council to:

- a) Repeal the same for misuse, or nonuse, or for failure to comply therewith;
- b) Require proper and adequate extension of plant and service and the maintenance thereof at the highest practical standards of efficiency;
- c) Establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- d) Make an independent audit and examination of accounts at any time and require annual reports;
- e) Require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
- f) Control and regulate the use of streets, alleys, bridges, and public places and the space above and beneath them;
- g) Regulate rates, fares and other charges, and make readjustments thereof from time to time if the same are not regulated by the state; and
- h) Impose such other regulations from time to time as it may determine to be conducive to the safety, welfare and accommodation of the public.

Section 9.3 - Revocable Permits

Temporary permits for the operation of public utilities, or like permits for a period not to exceed two years but subject to being renewed for a period not to exceed one year and subject to amendment, alteration or revocation at any time at the will of the council may be granted only by ordinance on such

terms and conditions as the council may determine and in accordance with state law. Such permits shall in no event be construed to be franchises, or extensions, or amendments of franchises.

Section 9.4 - Operation Beyond Franchise Period

Any operation of a public utility by a franchise holder, with the tacit permission of the City of Ferguson, beyond the period for which the franchise was granted, shall under no circumstances be construed as a renewal or extension of such franchise. Any such operation shall at most be regarded as a temporary permit, subject like other permits, to amendments, alteration, or revocation at any time at the will of the council.

ARTICLE X. - PUBLIC IMPROVEMENTS^[8]

Footnotes:

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Code references—Streets, sidewalks and other public places, Ch. 40; utilities, Ch. 45.

State Law reference— *Municipal authority over public highways, RSMo 82.190; public works and special assessments therefor, condemnation, RSMo Ch. 88.*

Section 10.1 - Institution of Proceedings

All proceedings for public improvements shall be begun by the adoption of a resolution by the council declaring the necessity of such improvement, the nature thereof, and the method of payment. When payment is to be made by special tax bills or other evidences of assessments upon real property, or out of the local improvement fund, as herein provided, reimbursed by collection of such assessments, the resolution shall state the proposed method of making assessments to pay for the improvement. The resolution shall also state the estimate of the probable cost of the improvement, but any error or inaccuracy in the estimate as compared with the actual cost of the work shall not affect the validity of the proceedings or of any assessments made or tax bills issued to pay for this work.

Section 10.2 - Protests

10.2.1 Procedure

Unless otherwise provided for, any public improvement projects which are to be paid for partially or wholly by assessments upon real property or out of the local improvement fund shall be authorized and executed as follows: The council shall cause its resolution declaring the necessity for such improvement to be published in a newspaper once a week for two consecutive weeks, and shall cause a copy of the resolution to be mailed to each interested resident property owner as shown by the last assessment rolls, and shall hold a public hearing thereon. If at least eighty percent of the resident property owners, as of the date of the resolution, who shall also own eighty percent of the total front feet owned by residents of the city abutting on the proposed improvement, shall not within ten days after the date of the public hearing file in writing with the clerk of the city, their protest against the improvement, then the council may by ordinance provide for the improvement in the manner prescribed in this charter.

If, however, at least eighty percent of the resident property owners as of the date of the resolution, who shall also own eighty percent of the front feet owned by residents of the city abutting on the proposed improvement, shall within ten days after the date of the public hearing file in writing with the clerk of the city their protest against such improvement, the public improvement will not be pursued, and

the city council shall not again initiate such proposed improvement for payment by special tax bills and special assessments for a period of two years after filing of said protest. Nothing contained in any other section of this charter shall be construed to be in conflict herewith.

10.2.2 Finding of Council to be Conclusive

When the council shall by ordinance find and declare that no valid protests, in the manner provided in the above section have been filed against such improvement, the finding and declaration shall be conclusive after the execution of the contract for the improvement, and thereafter no special tax bill shall be held invalid for the reason that a protest sufficiently signed was filed with the city clerk.

Section 10.3 - Plans and Specifications

When the council shall provide by ordinance for any public improvement project in accordance with the provisions of this charter, the city manager shall cause plans and specifications for the proposed improvement to be prepared and submitted to the council for approval. Such plans and specifications shall not limit materials to be used to those of any particular producer or manufacturer excepting cases wherein only a single source may exist.

Section 10.4 - Bids and Contracts

10.4.1 Conditions

All public improvements constructed or made at the expense of the city costing more than ten thousand dollars (\$10,000.00) and all work to be paid for by special tax bills or special assessments shall be let by contract to the lowest responsible bidder; provided, however, that this shall not be construed to prevent work being done by the city's own departments and employees.

10.4.2 Procedure

When work is to be done by contracts, the city manager shall advertise for bids in the manner and upon such notice as may be prescribed by ordinance. Any and all bids may be rejected. On the receipt of bids, and unless the right of rejection is exercised, the city manager shall let the contract to the lowest responsible bidder and shall cause the contract to be executed formally by the contractor and by the city manager on behalf of the city. Thereafter, all bids received shall be filed with the city clerk as a public record. The contractor shall be required to give bond for the faithful performance of the contract and for the payment by the contractor for all labor done and materials used in the improvement. Before it becomes binding and effective, the contract shall be confirmed by ordinance. Bids for improvements may be readvertised as often as may be advisable.

Section 10.5 - Methods of Payment

The ordinance authorizing the making of any public improvement shall prescribe the manner in which payment shall be made. Payment may be made in whole or in part by the city; in whole or in part by special tax bills issued to the contractor; or in whole or in part by special assessments against the private property benefitted, or by any other plan of payment authorized by law. Whenever any portion of the cost of the public improvement is to be met by special tax bills, assessments or other plan of payment the ordinance shall specify the portion thereof to be paid by such plan, and shall set forth the boundaries of the district within which the private property is to be assessed. Such assessments may be made and

collected by the city as other taxes on real estate are collected. Special tax bills may be issued to the contractor for such special improvement. Special tax bills issued to a contractor may be purchased by the city out of any funds available for that purpose.

Section 10.6 - Special Tax Bills; Other Plans of Payment

Upon the completion of any public work to be paid for by special tax bills or other plans of payment authorized by law, the council shall by ordinance direct the issuance thereof. When the ordinance is approved, the tax bills or other plans of assessment authorized shall become a first lien upon the property charged therewith; provided, however, that there shall be no priority among special tax bills or other plans of assessment issued under the Charter regardless of the date of the bill or other assessment. They shall be payable to the party entitled to them either at the office of the director of finance or at such place in the City of Ferguson as may be designated in writing, filed with the director of finance, at the option of the party so entitled. They shall be promptly registered in the office of the director of finance and delivered to the person entitled. They shall be prima facie evidence of what they contain and of their validity and no mere informality or clerical mistake in any of the proceedings shall be a defense. These tax bills or other plan of assessment shall mature at the times and bear the rates of interest prescribed by the ordinance directing their issuance, and at the request of the property owner, may be made payable in regular installments as provided by ordinance over a period not exceeding ten years.

Section 10.7 - Apportioning Costs

The cost of any work, service or improvement, to be paid for in whole or in part by assessments on property specially benefitted, may include the direct cost, the damages occasioned, the interest on bonds, or notes issued in anticipation of the collection of assessments, a reasonable charge for the services of the administrative staff of the city and any other item or cost which may reasonably be attributed to the proposed work, service or improvement which shall be apportioned among the individual parcels in proportion to their respective special benefits in the manner designated by the council; but assessments for the repair, maintenance or construction of sewers shall be levied proportionally by areas upon all lots or parcels of ground within the district to be assessed.

If any property deemed benefitted by a public improvement shall by reason of any provision of law be exempt from assessment, a proportionate share of the cost shall be assessed against such property, and such assessment shall be paid by the city.

Section 10.8 - Invalid Assessments

If any special tax bill or other form of special assessment shall fail to be valid in whole or in part for any cause, mistake, or inadvertence, the amount assessed shall not be sufficient to pay the cost of such improvement, the council shall be and is hereby authorized to cause such assessment to be reassessed and to enforce or authorize the enforcement of its collection.

Section 10.9 - Local Improvement Fund

A fund to be known as the Local Improvement Fund shall be established and maintained from any or all of the following:

- a) Appropriations from general funds or proceeds from bonds issued or the sale of special tax bills;
- b) Collections of special assessments or special tax bills, including interest thereon, or from condemnation of land previously paid for from the Local Improvement Fund; and

- c) Any general revenue funds which the council may have authorized to be put in the Local Improvement Fund, may be withdrawn upon order of the council, but no proceeds of any bond issue specifically for the purpose of the Local Improvement Fund shall be withdrawn from said fund.

Whenever the council shall authorize the cost of any public improvement or the purchase of any tax bills issued for any public improvement to be paid out of the Local Improvement Fund, then any special assessment and the interest that may be levied and collected on account of the improvement or the proceeds from the collection of any such tax bills and interest shall be credited to and paid into this fund.

ARTICLE XI. - GENERAL PROVISIONS

Section 11.1 - Judicial Notice of Charter

This charter is declared to be a public act, and all courts shall take judicial notice thereof.

Section 11.2 - Officers' and Employees' Interest in Contracts

No officer or employee of the city shall have a financial interest direct or indirect in any contract with the city, or be financially interested, directly or indirectly, in the sale to the city of any land, materials, supplies, or services, except on behalf of the city as an officer or employee. Any violation of this section shall render the contract or sale void and any officer or employee so violating this section shall thereby forfeit his office or employment.

Section 11.3 - Notice of Suits

No action shall be maintained against the city for, or on account of, any injury growing out of alleged negligence of the city unless notice shall first have been given in writing to the city manager within ninety days of the occurrence for which damage is claimed, stating the place, time, character, and circumstances of the injury, and that the person so injured will claim damages from the city.

Section 11.4 - Official Bonds

The city manager, city clerk, director of finance, all other officers and employees receiving, disbursing or responsible for city funds and such other officers and employees as the council by ordinance may designate shall, within such time after election or appointment as may be fixed by ordinance and before entering upon the discharge of their duties, give bond with a surety company or surety companies authorized to do business within the State of Missouri, in such sums as may be prescribed by ordinance for the faithful and proper performance of their duties and for the prompt accounting for and paying over to the city of all moneys belonging to the city that may come into their hands. The city shall pay the premiums on all such bonds. If any person elected or appointed to any office or employment shall fail to give bond as herein required, that person shall forfeit the office or employment. Unless otherwise provided by ordinance, the bond of the city clerk shall be filed with the mayor and the bonds of all other officers and employees shall be filed with the city clerk.

Section 11.5 - Proof of Ordinance

Any ordinance may be proved by a copy certified by the city clerk under the seal of the city; or, when printed and published by authority of the city, it shall be received in evidence in all courts or other places without further proof of authenticity.

State Law reference— Receipt of ordinances as evidence, RSMo 82.200.

Section 11.6 - Objects of Licensing, Taxation and Regulation

The council shall have power by ordinance to license, tax and regulate all business services, occupations, professions, vocations, activities or things of any nature which are now or may hereafter be enumerated by state statute for any statutory, special charter or constitutional charter cities, but the foregoing shall not be taken to affect or impair the general power of the city to impose license taxes upon any business, vocation, pursuit or calling, or any class or classes thereof now or hereafter not prohibited by law. Any ordinance imposing a license tax may divide and classify any subject of taxation and may impose a different tax upon each class, but the tax shall be uniform for each class. All licenses shall be issued for such periods as may be provided by ordinance, but no such period shall exceed one year.

Code reference—Taxation, Ch. 42.

Section 11.7 - Competitive Bidding

Before the city makes any purchase or contract or lets any contract for improvements, ample opportunity shall be given for competitive bidding subject to such exceptions as the council upon recommendation of the city manager may prescribe by ordinance or resolution; provided, however, that the council shall not except individual contracts, purchases or sales from the requirements of competitive bidding, nor shall it permit the subdivision of contracts or purchases for the purpose of evading the requirements of competitive bidding.

Section 11.8 - Contracts

No contract or order purporting to impose any financial obligations on the city shall be executed, nor shall it be valid and binding upon the city, unless it be in writing, and unless the director of finance shall first certify in writing thereon that such contract or order is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance to the credit of such appropriation sufficient to pay for it.

Section 11.9 - Condemnation Proceedings

All proceedings for the condemnation of property or in the exercise of the right of eminent domain shall be in accordance with the laws of the state now or hereafter applicable to constitutional charter cities.

State Law reference— Condemnation, RSMo 88.010—88.077.

Section 11.10 - Power to Administer Oaths

The mayor, any council member, or the city clerk may administer oaths or affirmations in any matter pertaining to the affairs and government of the city.

Section 11.11 - Effect of Unconstitutional Provisions

If any provision of this charter is held to be unconstitutional or void, this shall not affect the validity, force, or effect of any other provision.

Section 11.12 - Amendments

Amendments to this charter may be framed and submitted to the voters by a commission in the manner provided by the state constitution and law for framing and submitting a complete new charter. Amendments may also be proposed by the council or by initiative petition of not less than ten percent of the registered qualified voters of the city, filed with the clerk, setting forth the proposed amendment. The council shall at once provide by ordinance that any amendment so proposed shall be submitted to the

voters at the next election held in the city not less than sixty days after its passage, or at a special election held as provided by the constitution and law of the state for a charter. Any amendment approved by a majority of the qualified voters voting thereon shall become a part of the charter at the time and under the conditions fixed in the amendment; sections or articles may be submitted separately or in the alternative and determined as provided by the constitution and law of the state for a complete charter.

State Law reference— Similar provisions, Mo. Const. Art. VI, Sec. 20.

Section 11.13 - Effective Date

All amendments to this Charter that are approved pursuant to Section 11.12 shall be effective from the date of the election where approved by a majority of the qualified electors.

CHARTER COMPARATIVE TABLE

;adv10; This table shows the disposition of amendments to the home-rule Charter since its adoption on February 3, 1998.

Ordinance Number	Adoption Date	Date Ratified	Section	Disposition
2008-3334	1-22-08	4- 8-08	1, 2	3.2.2
2008-3335	1-22-08	4- 8-08	1, 2	3.2.3
				7.1.1
2008-3336	1-22-08	4- 8-08	1, 2	<u>3.3</u>
2008-3337	1-22-08	4- 8-08	1, 2	3.4.3
2008-3338	1-22-08	4- 8-08	1, 2	<u>4.5</u>
2008-3339	1-22-08	4- 8-08	1, 2	<u>5.2</u>
2008-3340	1-22-08	4- 8-08	1, 2	<u>6.3(c)</u>
2008-3341	1-22-08	4- 8-08	1, 2	<u>4.4(a)</u>

PART II - CODE OF ORDINANCES

Chapter 1 - GENERAL PROVISIONS

Sec. 1-1. - How Code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated "The Code of Ordinances of the City of Ferguson, Missouri" and may be so cited. The ordinances may also be cited as "Ferguson City Code."

(Code 1973, § 1.01(a))

Sec. 1-2. - Definitions and rules of construction.

In the construction of this Code and of all ordinances of the city, the following definitions and rules of construction shall be observed, unless it shall be otherwise expressly provided in any section or ordinance, or unless inconsistent with the manifest intent of the council, or unless the context clearly requires otherwise:

Charter. The term "Charter" shall mean the Charter of the City of Ferguson, Missouri.

City. The words "the city" or "this city" shall mean the City of Ferguson, Missouri.

City plan commission. The term "city plan commission" shall be construed to mean the planning commission, within the meaning of Charter section 5.1.

Computation of time. The time within which an act is to be done shall be computed by excluding the first day and including the last. If the last day is Sunday, it shall be excluded.

State Law reference— Similar construction, RSMo 1.040.

Council. The term "council" shall mean the Council of the City of Ferguson, Missouri.

County. The words "the county" or "this county" shall mean the County of St. Louis, State of Missouri.

Gender. When any subject matter, party or person is described or referred to by words importing the masculine, females as well as males, and associations and bodies corporate as well as individuals, shall be deemed to be included.

State Law reference— Similar construction, RSMo 1.030(2).

Joint authority. Words importing joint authority to three (3) or more persons shall be construed as authority to a majority of such persons.

State Law reference— Similar construction, RSMo 1.050.

Keeper and proprietor. The words "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or through a servant, agent or employee.

May. The word "may" is permissive.

Month. The word "month" shall mean a calendar month.

State Law reference— Similar construction, RSMo 1.020(10).

Municipal court. The term "municipal court" shall mean the Ferguson Municipal Court, a Division of the 21st Judicial Circuit Court of the State of Missouri.

Municipal library district board. The term "municipal library district board" shall be construed to mean the library board, within the meaning of Charter section 5.1.

Number. When any subject matter, party or person is described or referred to by words importing the singular number, the plural and separate matters and persons and bodies corporate shall be deemed to be included.

State Law reference— Similar construction, RSMo 1.030(1).

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Office, officer, department, board, commission or other agent or agency. The naming of any office, officer, department, board, commission or other agent or agency shall be construed as if followed by the words "of Ferguson, Missouri." Any such reference shall be deemed to include any person authorized by law to perform the duties of any such office, officer, department, board, commission or other agent or agency.

Official time. The term "official time" shall mean the United States standard time for the zone in which the city is located. If such time is not later than the mean astronomical time of the ninetieth degree of longitude west from Greenwich, the official time for the city shall be advanced one (1) hour from 2:00 a.m. on the last Sunday in April, until 2:00 a.m. on the last Sunday in October in each year.

Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of the building or land.

Park and recreation advisory board. The term "park and recreation advisory board" shall be construed to mean the park board, within the meaning of Charter section 5.1.

Person. The word "person" shall include a corporation, firm, partnership, association, organization and any other group acting as a unit as well as individuals. It shall also include an executor, administrator, trustee, receiver or other representative appointed according to law. Whenever the word "person" is used in any section of this Code prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members thereof, and as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of any such section.

State Law reference— Person defined, RSMo 1.020(11).

Personal property. The term "personal property" includes money, goods, chattels, things in action and evidences of debt.

State Law reference— Similar construction, RSMo 1.020(12).

Preceding, following. The terms "preceding" and "following," when used by way of reference to any section of the statutes, mean the section next preceding or next following that in which the reference is made, unless some other section is expressly designated in the reference.

State Law reference— Similar construction, RSMo 1.020(14).

Property. The word "property" includes real and personal property.

State Law reference— Similar construction, RSMo 1.020(15).

Public way. The words "public way" shall include any street, alley, boulevard, parkway, highway, sidewalk or other public thoroughfare.

Real property, premises, real estate, lands. The terms "real property," "premises," "real estate" or "lands" shall be deemed to be co-extensive with lands, tenements and hereditaments.

State Law reference— Similar construction, RSMo 1.020(16).

RSMo The abbreviation "RSMo" shall mean the latest edition of the Revised Statutes of Missouri, as amended.

Shall. The word "shall" is mandatory.

Sidewalk. The word "sidewalk" shall mean that portion of the street between the curb line and the adjacent property line which is intended for the use of pedestrians.

Signature. Where the written signature of any person is required, the proper handwriting of the person or his mark shall be intended.

State. The words "the state" or "this state" shall mean the State of Missouri.

Street. The word "street" shall mean and include any public way, highway; street, avenue, boulevard, parkway, alley or other public thoroughfare, and each of such words shall include all of them.

Tenant, occupant. The word "tenant" or "occupant," applied to a building or land, shall include any person who occupies the whole or a part of any such building or land, whether alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Writing, written. The words "writing" and "written" shall include printing, lithographing or any other mode of representing words and letters.

State Law reference— Similar construction, RSMo 1.020(21).

Yard waste. The words "yard waste" shall mean any grass clippings, lawn clippings, shrubbery, and/or trimmings, plant and/or garden vegetation, trees and/or trimmings (including branches, fruits, nuts, seeds, pods, or leaves), or any combination of the above.

Year. The word "year" shall mean a calendar year, unless otherwise expressed, and the word "year" shall be equivalent to the words "year of our Lord."

(Code 1973, §§ 1.02, 1.03, 9.01; Ord. No. 92-2545, § 1, 6-23-92)

State Law reference— Similar construction, RSMo 1.020(10).

Sec. 1-3. - Liberal construction of Code.

All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the council may be fully carried out.

State Law reference— Construction of statutes generally, RSMo 1.010—1.210.

Sec. 1-4. - Catchlines of sections.

The catchlines of the several sections of this Code, printed in boldface type, are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of the sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of the sections, including the catchlines, are amended or reenacted.

Sec. 1-5. - History notes.

The history notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section.

Sec. 1-6. - References and editor's notes.

The references and editor's notes appearing throughout this Code are not intended to have any legal effect but are merely intended to assist the users hereof.

Sec. 1-7. - Provisions considered as continuations of existing ordinances.

The provisions appearing in this Code, so far as they are the same in substance as those of ordinances existing at the time of the adoption of this Code, shall be considered as continuations thereof and not as new enactments.

(Code 1973, § 1.04(b))

Sec. 1-8. - Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance, when not inconsistent with this Code:

- (1) Promising or guaranteeing the payment of money for the city or authorizing the issue of any bonds of the city or any evidence of the city's indebtedness or any contract or obligation assumed by the city;
- (2) Levying annual taxes, or making special assessments;
- (3) Conferring any right or franchise;
- (4) Adopted for purposes which have been consummated;
- (5) Which is temporary, although general in effect, or special, although permanent in effect;
- (6) Appropriating funds;
- (7) Reserved;
- (8) Pertaining to the compensation of any city officer or employee or any personnel policy dealing with police officers, firefighters or other city employees;
- (9) Pertaining to any retirement, disability or other pension or benefit accrued or accruing to any police officer or firefighter under former Chapter 8 of the 1973 Municipal Code;
- (10) Annexing territory to the city;
- (11) Relating to the dedication, opening, grade improvement, altering, widening or vacating of streets, alleys, sidewalks or public place;
- (12) Respecting the conveyance or acceptance of real property or easements in real property;
- (13) Authorizing or relating to particular public improvements;
- (14) Pertaining to the zoning or rezoning specific property;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. These ordinances are on file in the city clerk's office.

(Code 1973, § 1.04(a))

Cross reference— Officers and employees generally, § 2-46 et seq.; official traffic-control devices continued in effect, § 44-223.

Sec. 1-9. - Repeal of ordinance not to affect liabilities, etc.

Whenever any ordinance or part of an ordinance shall be repealed or modified, either expressly or by implication, by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the ordinance repealing or modifying it shall go into effect unless therein otherwise expressly provided; but no suit, prosecution, proceeding, right, fine or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall in anywise be affected, released or discharged, but may be prosecuted, enjoyed and recovered as fully as if the ordinance or provisions had continued in force, unless it shall be therein otherwise expressly provided.

(Code 1973, § 1.04(b))

State Law reference— Effect of repeal of laws, RSMo 1.150—1.180.

Sec. 1-10. - Repeal not to revive former ordinance.

When an ordinance repealing a former ordinance, clause or provision shall itself be repealed, the repeal shall not be construed to revive the former ordinance, clause or provision unless it be expressly so provided and the former ordinance, clause or provision is set forth at length.

State Law reference— Similar provisions, RSMo 1.150.

Sec. 1-11. - Amendments to Code.

- (a) All ordinances passed subsequent to this Code, which amend, repeal or in any way affect this Code, may be numbered in accordance with the numbering system of this Code and printed for inclusion therein, or in the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby and the subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances by the council.
- (b) Amendments to any of the provisions of this Code should be made by amending such provisions by specific reference to the section of this Code in substantially the following language: "That section _____ of the Code of Ordinances of the City of Ferguson, Missouri, is hereby amended to read as follows: _____ (Set out new provisions in full) _____"
- (c) When the council desires to enact an ordinance of a general and permanent nature on a subject not heretofore existing in the Code, which the council desires to incorporate into the Code, a section in substantially the following language shall be made a part of the ordinance: "Section _____. It is the intention of the governing body, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Ferguson, Missouri, and the sections of this ordinance may be renumbered to accomplish such intention."

(d)

All sections, articles, chapters or provisions of this Code desired to be repealed should be specifically repealed by section number or chapter number, as the case may be.

(Code 1973, § 1.01(b))

Sec. 1-12. - Supplementation of Code.

- (a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the council. A supplement to the Code shall include substantive, permanent and general parts of ordinances passed by the council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier, meaning the person, agency or organization authorized to prepare the supplement, may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
 - (1) Organize the ordinance material into appropriate subdivisions;
 - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in any such catchlines, headings and titles;
 - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
 - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code);
 - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-13. - Altering Code.

It shall be unlawful for any person in the city to change or amend, by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the city to be misrepresented thereby.

State Law reference— Tampering with a public record, RSMo 575.110.

Sec. 1-14. - Severability.

The sections, paragraphs, sentences, clauses and phrases of this Code are severable and if any section, paragraph, sentence, phrase or clause of this Code is declared to be unconstitutional by the valid decree of any court of competent jurisdiction, the unconstitutionality shall have no effect upon any of the remaining sections, paragraphs, sentences, phrases or clauses of this Code.

(Code 1973, § 1.09)

State Law reference— Similar provisions, RSMo 1.140.

Sec. 1-15. - General penalty; continuing violations; violations declared nuisances.

- (a) Whenever in this Code or any ordinance of the city, or rule or regulation or order promulgated by an officer or agency of the city under authority duly vested in him or it, any act is prohibited or is declared to be unlawful, or an offense, or misdemeanor, or the doing of any act is required, or the failure to do any act is declared unlawful, or an offense, or a misdemeanor, and no specific penalty is provided for the violation thereof, upon conviction of a violation of any provision of this Code or of any ordinance, rule, regulation, or order, the violator shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment in the city jail not exceeding three (3) months, or by such fine and imprisonment.
- (b) Each day any violation of this Code or any such ordinance, rule, regulation or order shall continue shall constitute, except where otherwise provided, a separate offense.
- (c) In addition to the penalties provided in subsection (a), any condition caused or permitted to exist in violation of any of the provisions of this Code and the ordinances of the city shall be deemed a public nuisance and may be abated by the city as provided by law, and each day that any such offensive condition continues shall be regarded as a new and separate offense.

(Code 1973, § 1.06; Ord. No. 99-3046, § 1, 9-28-99)

Sec. 1-16. - Imprisonment for failure to pay fine or costs of prosecution—Authority.

When a sentence for violation of any provision of this Code or other ordinance of the city, or for violation of any rule, regulation or order promulgated or given pursuant thereto, includes a fine and such fine is not paid, or if the costs of prosecution adjudged against an offender are not paid, the person under sentence shall be imprisoned one day for every ten dollars (\$10.00) of any such unpaid fine or costs, or both the fine and costs, not to exceed a total of four (4) months.

Sec. 1-17. - Same—Imprisonment to include work; duty of chief of police.

- (a) Any person sentenced to imprisonment for violation of any provisions of this Code or of any other ordinance of this city, or of any rule, regulation or order promulgated pursuant thereto, and any person who fails to pay a fine imposed for any such violation, or the costs of prosecution, may be put to work and perform labor on the public streets or other public works or buildings of the city for such purposes as the city may deem necessary. For every ten dollars (\$10.00) of an assessed or unpaid fine, a prisoner shall work one (1) day.
- (b) The chief of police shall cause all such prisoners, as may be directed by the city manager and approved by the municipal court, to work out the full number of days for which they have been sentenced by performing labor upon the public streets or other public works or buildings of the city as may be designated by the mayor.

(Code 1973, § 1.08)

State Law reference— Working prisoners on city streets, RSMo 71.220.

Sec. 1-18. - Notices—Service.

- (a) Whenever any notice is required under the provisions of this Code or other city ordinance to be served on any property owner or to the lessee or occupant of any property, the same shall be served in the following manner:

- (1) By delivering such notice to such owner, lessee or occupant personally or by leaving the same at his residence, office or place of business with an agent, servant, representative or employee of such owner, lessee or occupant or with some person of suitable age and discretion;
 - (2) By mailing such notice by certified or registered mail to such owner, lessee or occupant at his last known address;
 - (3) If the owner, lessee or occupant is unknown, or may not be notified under the requirements of subsections (a)(1) or (a)(2), then by posting such notice in some conspicuous place on the premises at least five (5) days before the act or action concerning which the notice is given is to take place.
- (b) No person shall interfere with, obstruct, mutilate, conceal or tear down any official notice or placard posted by any city officer, unless permission to do so is given by such officer.
- (c) It is hereby declared to be the intent of the council that the provisions of subsection (a) are to be construed as broadly as possible so as to allow for service of notices to be effectuated as efficiently as possible, but within the confines of procedural due process. For purposes of this section, the lessee or occupant of any property shall be considered an agent for service of any notice upon the owner of such property. The terms "owner," "lessee," "occupant," "agent," "servant," "representative" and "employee" are to be considered interchangeable for purposes of this section.

Sec. 1-19. - Same—Publication.

Whenever any notice is required by the terms of this Code or other ordinance of the city to be published in a newspaper, it shall be published in a newspaper qualified under the laws of the state to be used for the publication of public advertisements and orders of publication.

(Charter 1954, § 124)

Sec. 1-20. - Adoption of emblem; certain uses prohibited; registration with Secretary of State.

- (a) An emblem for the City of Ferguson, Missouri, is hereby adopted which shall be as follows:



- (b) No person, association, corporation, or other entity shall assume, adopt, display, or use the city emblem as pictured in subsection (a) of this section, or an emblem nearly resembling said emblem as to be an imitation thereof, without first obtaining written authorization from the city council.
- (c) The city shall register with the Secretary of State of Missouri, a facsimile of this emblem adopted by the city.

(Ord. No. 93-2627, § 1, 5-25-93; Ord. No. 2003-3167, § 1, 1-28-03)

Chapter 2 - ADMINISTRATION^[1]

Footnotes:

--- (1) ---

Cross reference— Court, Ch. 13; administration of flood plain regulations, § 18-20 et seq.; administration and enforcement of fair housing code, § 21-31 et seq.; offenses against public administration, § 29-16 et seq.; police, Ch. 33; administration and enforcement of traffic regulations, § 44-31 et seq.

ARTICLE I. - IN GENERAL

Sec. 2-1. - Chapter designated as administrative code.

Pursuant to the provisions of Charter section 5.1, all provisions of this chapter are hereby designated the administrative code of the city and shall be construed as such.

Sec. 2-2. - Other provisions designated part of administrative code.

Pursuant to Charter section 5.1, the following provisions of this Code which are not a part of this chapter are hereby designated and shall be construed as parts of the administrative code of the city:

- (1) Sections 7-16 through 7-40, pertaining to the architectural board;
- (2) Sections 10-16 through 10-40, pertaining to the department of civil defense;
- (3) Section 44-31, pertaining to the traffic commission.

Sec. 2-3. - Corporate seal.

The city shall have a corporate seal with which to attest its official acts, which seal shall be in custody of the city clerk.

(Charter 1954, § 1)

Sec. 2-4. - Energy conservation requirements for city operations.

In order to reduce paper usage and waste and increase efficiency, the city manager shall develop, implement and maintain a plan to reduce at least thirty (30) percent less energy of its 2008 usage and twenty (20) percent of the 2008 waste generated by the city. Such reduction shall occur within the next five (5) years. As part of the budget process, the city manager shall include an annual report to the city council reporting the energy consumption performance for that previous year and the plan of reduction or plan for continued maintenance. Possible environmental-friendly avenues and processes for the city to consider in its plan include:

- (1) Utilizing the council Intranet site on the city website as web-based portal to house Council documents, such as meeting agendas, minutes, ordinances, supporting documents. Council and city staff will have access to these documents from any PC, home or office and can view all necessary documents online during council meetings, eliminating the need for hard-copies in most circumstances;
- (2) Acquiring products and services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose in all purchases;
- (3) Incorporating energy efficient pulse type heating systems in City-owned buildings;
- (4) Using environmentally safe light bulbs to reduce energy waste;
- (5) Replacing a portion of city-owned vehicles with hybrids, or using bio-diesel in the fleet vehicles;
- (6) Requiring solicitors to include instructions asking bidders to identify any environmental benefits over the life cycle of their products and/or services in bid procurement services;
- (7) Adding information on to the city's website that contains environment education on topics like landscaping, recycling and energy efficiency; and
- (8) Promoting the use of neighborhood gardens.

(Ord. No. 2009-3382, § 1, 2-24-09)

Editor's note— Prior to the reenactment of § 2-4 by Ord. No. 2009-3382, the section was repealed in its entirety by Ord. No. 90-2398, § 1, adopted Jan. 23, 1990.

Sec. 2-5. - Reserved.

Editor's note— Ord. No. 94-2733, § 1, adopted Sept. 13, 1994, repealed § 2-5, pertaining to disclosure of potential conflicts of interest as derived from Ord. No. 91-2497, § 1, adopted Aug. 20, 1991, and Ord. No. 93-2669, § 1, adopted Sept. 14, 1993.

Secs. 2-6—2-20. - Reserved.

ARTICLE II. - THE COUNCIL^[2]

Footnotes:

-- (2) --

Charter reference— *The council, Art. III.*

Sec. 2-21. - Authority to create offices, departments, etc.

The council shall be authorized to create, change or abolish offices, departments or agencies other than those established by the Charter as may be necessary and required for the proper administration and functioning of the city's business.

(Ord. No. 85-2054, § 1(4.01), 2-12-85)

Sec. 2-22. - Special investigations.

The council may employ persons specially trained and experienced in governmental administration to study the work performed, the methods employed and the general administrative efficiency of the city government, and to report to the council with recommendations for improving the efficiency of operation of the city government. The investigators shall have access to all books and records of all departments of the city. The general scope of the studies and the compensation for the investigators shall be determined by the council.

(Charter 1954, § 20)

Sec. 2-23. - Form of nominating petition.

The forms for a nominating petition for the office of councilman shall be as follows:

We, the undersigned, registered voters of the City of Ferguson, County of St. Louis, respectfully petition and request that the name of _____ residing at _____ be placed upon the ballot as candidate for the Office of Councilman of Ward No. _____ / _____ / _____ (or at large), to be voted for at the election to be held on the _____ day of _____ / _____ / _____, 20_____ and we individually signify that our names have appeared on the roll of registered voters within the last year and that we are qualified to vote on this candidate.

PRINT NAME	ADDRESS	SIGNATURE	DATE OF SIGNING
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(Space for 75 Signatures)

(Verification of Signatures)

ACCEPTANCE OF NOMINATION

I hereby certify that I am qualified under the Charter to serve and I accept the nomination for the office of Councilman of Ward No. _____ (or at large) to be voted for at the election to be held on the _____ day of _____, and agree to serve if elected.

Date and hour of filing _____

This petition filed by _____

Whose address is _____

Received by _____ City Clerk

(Charter 1954, § 128; Ord. No. 91-2504, § 1, 9-24-91; Ord. No. 99-3062, § 1, 11-9-99)

Charter reference— Designation of form of nominating petition by ordinance mandated, § 7.2.1.

Sec. 2-24. - Quorum.

A majority of the councilmen elected shall constitute a quorum to do business, but a smaller number may adjourn from day to day. In case that a lesser number than a quorum shall convene at a regular or special meeting, the majority of the members present are authorized to direct the chief of police to send for and compel the attendance of any or all absent members upon such terms and conditions and at such time as such majority of members shall agree.

(Charter 1954, § 9; Code 1973, § 3.01.3)

Sec. 2-25. - Absence of officers.

In the absence of the mayor and the mayor pro tempore, the council shall proceed to elect, if a quorum, is found to be present, by a majority vote of those present, a chairman of the meeting until the mayor or the mayor pro tempore appears.

(Code 1973, § 3.01.4)

Sec. 2-26. - Meetings—Generally.

- (a) *Regular meetings.* The council shall meet in regular session in the council room in the City Hall on Tuesday evenings, 7:00 p.m., on the second and fourth Tuesdays of each month. When Tuesday is a holiday, the regular meeting shall be held at such time as may be provided by the council, on motion at the previous meeting. Unless otherwise provided, during the months of July and August, regular meetings shall be held only on the fourth Tuesday of the month. The council may, by motion, dispense with any regular meeting, but at least one (1) meeting must be held in each calendar month.
- (b) *Special meetings.* Special meetings may be called by the mayor or by two (2) members of the council by written request filed with the city clerk, who shall thereupon prepare a notice of such special meeting, stating time, place and object thereof. Any such notice shall be served personally upon each member of the council and the city manager, or left at their usual place of residence at least twenty-four (24) hours before the time of the meeting, absent good cause. It shall also be the duty of the city clerk, immediately upon receipt of the request for the meeting, to make diligent effort to notify each member of the council in person, either by telephone or otherwise, of such special meeting.

(Code 1973, §§ 3.01.1, 3.01.2; Ord. No. 2008-3332, § 1, 1-22-08)

Charter reference— Council meetings, § 3.11.1.

State Law reference— Notice of public meetings, RSMo 610.020.

Sec. 2-27. - Open meetings and records.

(a) *Definitions.* As used in this article, unless the context otherwise indicates, the following terms mean:

- (1) *Closed meeting, closed record or closed vote:* Any meeting, record or vote closed to the public.
- (2) *Copying:* If requested by a member of the public, copies provided as detailed in the provisions of this chapter, if duplication equipment is available.
- (3) *Public business:* All matters which relate in any way to the performance of the city's functions or the conduct of its business.
- (4) *Public governmental body:* Any legislative, administrative, governmental entity created by the Constitution or statutes of this state, orders or ordinance of the city, judicial entities when operating in an administrative capacity, or by executive order, including:
 - (1) Any advisory committee or commission appointed by the mayor or city council.
 - (2) Any other legislative or administrative governmental deliberative body under the direction of three (3) or more elected or appointed members having rulemaking or quasi-judicial power.
 - (3) Any committee appointed by or at the direction of any of the entities and which is authorized to report to any of the above named entities, any advisory committee appointed by or at the direction of any of the named entities for the specific purpose of recommending, directly to the mayor, city council, or the city manager, policy or policy revisions or expenditures of public funds. The custodian of the records of any public governmental body shall maintain a list of the policy advisory committees described in this subsection; and
 - (4) Any quasi-public governmental body.
- (5) *Quasi-public governmental body:* Any person, corporation or partnership organized or authorized to do business in this state pursuant to the provisions of RSMo Chs. 352, 353, or 355, or unincorporated association which either:
 - (1) Has as its primary purpose to enter into contracts with public governmental bodies, or to engage primarily in activities carried out pursuant to an agreement or agreements with public governmental bodies; or
 - (2) Performs a public function, as evidenced by a statutorily based capacity to confer or otherwise advance, through approval, recommendation or other means, the allocation or issuance of tax credits, tax abatement, public debt, tax exempt debt, rights of eminent domain, or the contracting of lease-back agreements on structures whose annualized payments commit public tax revenues; or any association that directly accepts the appropriation of money from the city, but only to the extent that a meeting, record, or vote relates to such appropriation.
- (6) *Public meeting:* Any meeting of a public governmental body subject to this chapter at which any public business is discussed, decided, or public policy formulated, whether such meeting is conducted in person or by means of communication equipment, including, but not limited to, conference call, video conference, internet chat, or internet message board. The term "public meeting" shall not include an informal gathering of members of a public governmental body for ministerial or social purposes when there is no intent to avoid the purposes of this article, but the

term shall include a public vote of all or a majority of the members of a public governmental body, by electronic communication or any other means, conducted in lieu of holding a public meeting with the members of the public governmental body gathered at one (1) location in order to conduct public business.

- (7) *Public record*: Any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared for the public governmental body by a consultant or other professional service paid for in whole or in part by public funds, including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body. The term "public record" shall not include any internal memorandum or letter received or prepared by or on behalf of a member of a public governmental body consisting of advice, opinions and recommendations in connection with the deliberative decision-making process of said body, unless such records are retained by the public governmental body or presented at a public meeting. Any document or study prepared for a public governmental body by a consultant or other professional service as described in this section shall be retained by the public governmental body in the same manner as any other public record.
- (8) *Public vote*: Any vote, whether conducted in person, by telephone, or by any other electronic means, cast at any public meeting of any public governmental body.

(Ord. No. 2004-3227, § 1, 9-28-04)

Sec. 2-27.01. - Meetings, records and votes to be public—Exceptions.

All meetings, records and votes are open to the public, except that any meeting, record, minutes or vote relating to one (1) or more of the following matters, as well as other materials designated elsewhere in this chapter, shall be closed unless the public governmental body votes to make them public:

- a. Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote, or settlement agreement relating to legal actions, causes of action, or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of RSMo 610.111, however the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record.
- b. Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes or vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public upon execution of the lease, purchase, or sale of the real estate.

c.

Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded. However, any vote on a final decision, when taken by a public governmental body, to hire, fire, promote or discipline an employee of a public governmental body shall be made available with a record of how each member voted to the public within seventy-two (72) hours of the close of the meeting where such action occurs; provided, however, that any employee so affected shall be entitled to prompt notice of such decision during the seventy-two (72) hour period before such decision is made available to the public. As used in herein, the term "personal information" means information relating to the performance or merit of individual employees.

- d. Non-judicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment.
- e. Testing and examination materials, before the test or examination is given or, if it is to be given again, before so given again.
- f. Welfare cases of identifiable individuals.
- g. Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups.
- h. Software codes for electronic data processing and documentation thereof.
- i. Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid.
- j. Sealed bids and related documents, until the bids are opened; and sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed, or all proposals are rejected.
- k. Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such. It is the policy of the city that no information relating to present or past employees other than names, positions, salaries and lengths of service shall be provided to any person or agency other than: (i) as specifically requested in writing by the employee in question in accord with applicable provisions of the city's personnel policies; (ii) as may be required in response to a subpoena lawfully issued by a court of competent jurisdiction, or (iii) as otherwise may be required by law.
- l. Records which are protected from disclosure by law.
- m. Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest.
- n. Records relating to municipal hotlines established for the reporting of abuse and wrongdoing.
- o. Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product; however, all final audit reports issued by the auditor are to be considered open records pursuant to this chapter.
- p. Operational guidelines and policies developed, adopted, or maintained by any, public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health. Nothing in this exception shall be deemed to close information regarding expenditures, purchases, or contracts made by an agency in implementing these guidelines or policies. When seeking to close

information pursuant to this exception, the agency shall affirmatively state in writing that disclosure would impair its ability to protect the safety or health of persons, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records. This exception shall expire and be of no further force or effect on December 31, 2008.

- q. Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, and information that is voluntarily submitted by a non-public entity owning or operating an infrastructure to any public governmental body for use by that body to devise plans for protection of that infrastructure, the public disclosure of which would threaten public safety.
 - 1. Records related to the procurement of or expenditures relating to security systems purchased with public funds shall be open;
 - 2. When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records;
 - 3. Records that are voluntarily submitted by a nonpublic entity shall be reviewed by the receiving agency within ninety (90) days of submission to determine if retention of the document is necessary in furtherance of a state security interest. If retention is not necessary, the documents shall be returned to the nonpublic governmental body or destroyed;
 - 4. This exception shall expire and be of no further force or effect on December 31, 2008.
- r. Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, a public governmental body for such computer, computer system, computer network, or telecommunications network shall be open.
- s. Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a person or entity doing business with a public governmental body. Nothing in this section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body.

(Ord. No. 2004-3227, § 1, 9-28-04)

Sec. 2-27.02. - Records pertaining to internal investigations and investigations of allegedly illegal conduct.

In order to allow the fullest cooperation by employees and members of the public in investigation of matters wherein an employee of the city is alleged to have engaged in any form of misconduct, all files, records and documents relating to investigations of allegations of misconduct by city employees will be considered to be personnel records and shall be closed records under the custody of the respective department head or personnel office.

(Ord. No. 2004-3227, § 1, 9-28-04)

Sec. 2-27.03. - Records pertaining to medical condition or history.

All information obtained by the city regarding medical examinations, medical condition or medical history of city employees or job applicants, if retained by the city, shall be collected and maintained on separate forms and in separate medical files and shall be treated as closed and confidential records, except that:

- a. Supervisors and managers may be informed regarding necessary restrictions on the work duties of employees and necessary accommodations;
- b. First aid and safety personnel may be informed, when appropriate, if the information reflects the existence of a disability which might require emergency treatment; or
- c. Government officials investigating compliance with state or federal law pertaining to treatment of persons with disabilities may be allowed access to such records.

(Ord. No. 2004-3227, § 1, 9-28-04)

Sec. 2-27.04. - Records containing confidential, proprietary or private information.

1. In order to protect reasonable expectations of privacy on the part of persons having dealings with the city, city records containing information or entries of a personal, confidential, private or proprietary nature, including, but not limited to, income, sales data, financial circumstances, household and family relationships, social security numbers, dates of birth, insurance information and other information which reasonable persons generally regard as private and not a customary subject for public discourse, which information or entries have been provided to the city by one complying with regulations requiring the disclosure of such information, shall be excised from copies of city records disclosed or provided to members of the public other than those persons to whom the information of entries pertain. Persons desiring access to information or entries excised from such records may file a supplementary written request with the city clerk for disclosure of material to be specified in the request, which request should state:
 - a. Whether or not the requesting party has informed persons to whom the requested information pertains of the request; and
 - b. All reasons why the requesting party believes disclosure by the city of the specified information is in the public interest.
2. The city clerk may afford all interested parties, including the persons to whom the information pertains, a reasonable time within which to comment on the requested disclosure prior to acting further on the request. If an interested person objects to the disclosure of the requested information, the city clerk may conduct a hearing at which all interested parties may be heard. At such hearing the clerk shall consider, among such other factors as may be reasonable and relevant:
 - a. The requirements and intent of state law, city ordinances and this policy.

- b. The legitimate expectations of privacy on the part of interested parties.
- c. The personal, confidential, private or proprietary nature of the information at issue.
- d. Whether the information was obtained by the city under compulsion of law or was freely and voluntarily provided by the persons objecting to the disclosure; and
- e. The public purposes to be served by disclosure of the requested information.

If the city clerk determines that disclosure is legally required or would otherwise serve the best interests of the public and that such requirements or purpose outweigh the legitimate concerns or interest of the persons to whom the information pertains, the clerk shall provide the requested information to the requesting party.

3. In addition to or in lieu of the hearing described above, the city clerk may afford all interested parties a reasonable opportunity to seek judicial review of or relief from the proposed disclosure. The city clerk may also utilize the procedures for judicial determination and/or opinion solicitation.
4. Records and information that have been closed pursuant to the provisions of this chapter, RSMo Ch. 610, and other relevant state and federal laws and regulations are to be treated as confidential by all employees and elected and appointed officials of the city.
 - a. It shall be grounds for disciplinary action for any employee to (i) violate the confidentiality relating to such records or information; (ii) copy or remove closed and/or confidential information without the specific consent of the custodian thereof or in the normal course of performing such employee's duties for the city; (iii) provide or discuss closed records or confidential information with any person other than as a necessary part of performing such employee's duties for the city, or (iv) divulge, discuss or disclose information or records addressed in any closed meeting of a public governmental body, other than as a necessary part of performing such employee's duties for the city.
 - b. Elected and appointed officials are also expected to maintain the same strict standards of confidentiality required of employees. Breach of the confidentiality standards established by this chapter and required of employees in this section may be grounds for removal from office or other sanctions as may be deemed appropriate by the body of which such official is a member or by the city council.

(Ord. No. 2004-3227, § 1, 9-28-04)

Sec. 2-27.05. - Notices of meetings.

1. Each public governmental body shall give notice of the time, date, place, and tentative agenda of each meeting, in a manner reasonably calculated to advise the public of the matters to be considered, and if the meeting will be conducted by telephone or other electronic means, the notice of the meeting shall identify the mode by which the meeting will be conducted and the designated location where the public may observe and attend the meeting. If a public body plans to meet by Internet chat, internet message board, or other computer link, it shall post a notice of the meeting on its website in addition to its principal office and shall notify the public how to access that meeting. Reasonable notice shall include making available copies of the notice to any representative of the news media who requests notice of meetings of a particular public governmental body concurrent with the notice being made available to the members of the

particular governmental body and posting the notice on a bulletin board at City Hall or other prominent place which is easily accessible to the public and clearly designated for that purpose at the city hall.

The notice shall be given at least twenty-four (24) hours, exclusive of weekends and holidays when the city hall is closed, prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given.

2. When it is necessary to hold a meeting on less than twenty-four (24) hours' notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.
3. A formally constituted subunit of a parent governmental body may conduct a meeting without notice as required by this section during a lawful meeting of the parent governmental body, a recess in that meeting, or immediately following that meeting, if the meeting of the subunit is publicly announced at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.
4. A public body shall allow for the recording by audiotape, videotape, or other electronic means of any open meeting. A public body may establish guidelines regarding the manner in which such recording is conducted so as to minimize disruption to the meeting. No audio recording of any meeting, record, or vote closed pursuant to the provisions of RSMo 610.021 shall be allowed without permission of the public body; any person who violates this provision shall be guilty of an ordinance violation and punished by imprisonment for a period not to exceed fifteen (15) days, a fine not to exceed three hundred dollars (\$300.00), or by both such fine and imprisonment.

(Ord. No. 2004-3227, § 1, 9-28-04)

Sec. 2-27.06. - Closed meetings, how held.

1. A public governmental body proposing to hold a closed meeting or vote may do so by either:
 - a. Giving notice of same pursuant to the provisions of this article along with reference to the specific exception allowing such a closed meeting under state law; or
 - b. Upon an affirmative public vote of the majority of a quorum of the public governmental body. The vote of each member of the public governmental body on the question of closing a public meeting or vote and the specific reason for closing that public meeting or vote by reference to the specific exception allowing such a closed meeting under state law shall be announced publicly at an open meeting of the governmental body and entered into the minutes.
2. Any meeting or vote closed pursuant to RSMo 610.021 shall be closed only to the extent necessary for the specific reason announced to justify the closed meeting or vote. Public governmental bodies shall not discuss any business in a closed meeting, record or vote which does not directly relate to the specific reason announced to justify the closed meeting or vote. Public governmental bodies holding a closed meeting shall close only an existing portion of the meeting facility necessary to house the members of the public governmental body in the closed session, allowing members of the public to remain to attend any subsequent open session held by the public governmental body following the closed session.
- 3.

In the event any member of a public governmental body makes a motion to close a meeting, or a record, or a vote from the public and any other member believes that such motion, if passed, would cause a meeting, record or vote to be closed from the public in violation of any provision in RSMo Ch. 610, or this article such latter member shall state his or her objection to the motion at or before the time the vote is taken on the motion. The public governmental body shall enter in the minutes of the public governmental body any objection made pursuant to this subsection. Any member making such an objection shall be allowed to fully participate in any meeting, record or vote that is closed from the public over the member's objection. In the event the objecting member also voted in opposition to the motion to close the meeting, record or vote at issue, the objection and vote of the member as entered in the minutes shall be an absolute defense to any claim filed against the objecting member pursuant to RSMo Ch. 610.

(Ord. No. 2004-3227, § 1, 9-28-04)

Sec. 2-27.07. - Journals of meetings and records of voting.

1. A journal or minutes of open and closed meetings shall be taken and retained by the public governmental body, including, but not limited to, a record of any votes taken at such meeting. The minutes shall include the date, time, place, members present, members absent and a record of any votes taken.
2. All votes by members of a public governmental body at any meeting shall be recorded. When a roll call vote is taken, the minutes shall attribute each "yea" and "nay" vote, or abstinence if not voting, to the name of the individual member of the body. Any votes taken during a closed meeting shall be taken by roll call and the minutes of the closed meeting, sufficient to reflect the vote pursuant to this subsection shall be recorded. All votes taken by roll call in meetings of a public governmental body consisting of members who are all elected, except for the Missouri General Assembly and any committee established by a public governmental body, shall be cast by members of the public governmental body who are physically present and in attendance at the meeting. When it is necessary to take votes by roll call in a meeting of the public governmental body, due to an emergency of the public body, with a quorum of the members of the public body physically present and in attendance and less than a quorum of the members of the public governmental body participating via telephone, facsimile, internet, or any other voice or electronic means, the nature of the emergency of the public body justifying that departure from the normal requirements shall be stated in the minutes. Where such emergency exists, the votes taken shall be regarded as if all members were physically present and in attendance at the meeting.

(Ord. No. 2004-3227, § 1, 9-28-04)

Sec. 2-27.08. - Accessibility of meetings.

Each meeting shall be held at a place reasonably accessible to the public, and of sufficient size to accommodate the anticipated attendance by members of the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical. Every reasonable effort shall be made to grant special access to the meeting to handicapped or disabled individuals.

(Ord. No. 2004-3227, § 1, 9-28-04)

Sec. 2-27.09. - Segregation of exempt material.

If a public record contains material which is not exempt from disclosure, as well as material which is exempt from disclosure, the custodian shall separate the exempt and non-exempt material and make the non-exempt material available for examination and copying in accord with the policies provided herein. When designing a public record the custodian shall, to the extent practicable, facilitate a separation of exempt from non-exempt information. If the separation is readily apparent to a person requesting to inspect or receive copies of the form, the custodian shall generally describe the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

(Ord. No. 2004-3227, § 1, 9-28-04)

Sec. 2-27.10. - Custodian designated—Response to request for access to records.

1. The city clerk shall be the custodian of records and will be responsible for maintenance and control of all records. The city manager may designate deputy custodians in operating departments of the city and such other departments or offices as the city manager may determine. Deputy custodians shall conduct matters relating to public records and meetings in accord with the policies enumerated herein.
2. Except as otherwise provided by law, the city shall provide access to and, upon request, furnish copies of the city's public records subject to the provisions of the Code of Ordinances relating to copying fees. No person shall remove original public records from the City Hall or from the office of the custodian of records without written permission of the custodian. No public governmental body shall grant to any person or entity, whether by contract, license, or otherwise, the exclusive right to access and disseminate any public record unless the granting of such right is necessary to facilitate coordination with, or uniformity among, industry regulators having similar authority.
3. The custodian of records may require persons seeking access to public records to submit such request in writing and/or on a form designated by the custodian for such purpose. Such written request shall be sufficiently particular to reasonably apprise the custodian of the records sought.
4. Each request for access to a public record shall be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request is received by the custodian of records. If records are requested in a certain format, the public body shall provide the records in the requested format, if such format is available. If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection. This period for document production may exceed three (3) days for reasonable cause.
5. If a request for access is denied, the custodian of records shall provide, upon request, a written statement of the grounds for such denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester no later than the end of the third business day following the date that the request for the statement is received.
6. Any member of a public governmental body who transmits any message relating to public business by electronic means shall also concurrently transmit that message to either the member's public office computer or the custodian of records in the same format. The provisions of this subsection shall only apply to messages sent to other members of that body so that, when counting the sender, a majority of the body's members are copied. Any such message received by the custodian or at the member's office computer shall be a public record, subject, however, to the exceptions for closed records as provided by law.

(Ord. No. 2004-3227, § 1, 9-28-04)

Sec. 2-27.11. - Procedures for resolving questions of public accessibility.

A public governmental body or record custodian in doubt about the legality of closing a particular meeting, record or vote may, subject to approval by the city council, bring suit in the Circuit Court for the County of St. Louis to ascertain the propriety of such action. In addition, subject to approval by the city council, the public governmental body or custodian may seek a formal opinion of the attorney general or an attorney for the city regarding the propriety of such action. In such events, the proposed closed meeting or public access to the record or vote shall be deferred for a reasonable time pending the outcome of the actions so taken.

(Ord. No. 2004-3227, § 1, 9-28-04)

Sec. 2-27.12. - Fees.

1. The custodian shall charge ten cents (\$0.10) per page for a paper copy not larger than nine by fourteen inches, plus an hourly fee for duplicating time not to exceed the average hourly rate of pay for clerical staff of the city. Research time required for fulfilling records requests may be charged at the actual cost of research time. Based on the scope of the request, the city shall produce the copies using employees of the city that result in the lowest amount of charges for search, research, and duplication time. Prior to producing copies of the requested records, the person requesting the records may request the city to provide an estimate of the cost to the person requesting the records. The custodian shall receive (or may require) payment prior to duplicating and/or searching for documents.
2. Fees for providing access to public records maintained on computer facilities, recording tapes or disks, video tapes or films, pictures, maps, slides, graphics, illustrations or similar audio or visual items or devices, and for paper copies larger than nine by fourteen inches shall include only the cost of copies, staff time, which shall not exceed the average hourly rate of pay for staff of the city required for making copies and programming, if necessary, and the disk or tape, or other medium used for the duplication. Fees for maps, blueprints, or plats that require special expertise to duplicate may include the actual rate of compensation for the trained personnel required to duplicate such maps, blueprints, or plats. If programming is required beyond the customary and usual level to comply with a request for records or information, the fees for compliance may include the actual costs of such programming.

(Ord. No. 2004-3227, § 1, 9-28-04)

Sec. 2-27.13. - Law enforcement arrest reports and records, incident reports, etc.

Definitions. As used in this article, the following terms shall have the following definitions:

- (1) *Arrest:* An actual restraint of the person of the defendant, or by his/her submission to the custody of the officer, under authority of a warrant or otherwise for a criminal violation which results in the issuance of a summons or the person being booked.
- (2) *Arrest report:* A record of a law enforcement agency of an arrest and of any detention or confinement incident thereto together with the charge therefor.
- (3) *Inactive:* An investigation in which no further action will be taken by a law enforcement agency or officer for any of the following reasons:
 - a. A decision by the law enforcement agency not to pursue the case.

- b. Expiration of the time to file criminal charges pursuant to the applicable statute of limitations, or ten (10) years after the commission of the offense, whichever date earliest occurs.
 - c. Finality of the convictions of all persons convicted on the basis of the information contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such persons.
- (4) *Incident report*: A record of a law enforcement agency consisting of the date, time, specific location, name of the victim and immediate facts and circumstances surrounding the initial report of a crime or incident, including any logs of reported crimes, accidents and complaints maintained by that agency.
 - (5) *Investigative report*: A record, other than an arrest or incident report, prepared by personnel of a law enforcement agency, inquiring into a crime or suspected crime, either in response to an incident report or in response to evidence developed by law enforcement officers in the course of their duties.

(Ord. No. 2004-3227, § 1, 9-28-04)

Sec. 2-27.14. - Police department records.

- 1. The police department of the city shall maintain records of all incidents reported to the police department, and investigations and arrests made by the police department. All incident reports and arrest reports shall be open records. Notwithstanding any other provision of law other than the provisions of subsection (3) of this section or RSMo 320.083, investigate reports of the police department are closed records until the investigation becomes inactive. If any person is arrested and not charged with an offense against the law within thirty (30) days of the person's arrest, the arrest report shall thereafter be a closed record except that the disposition portion of the record may be accessed except as provided in this section.
- 2. Except as provided in subsections (3) and (4) of this section, if any portion of a record or document of a police department officer or the police department, other than an arrest report, which would otherwise be open, contains information that is reasonably likely to pose a clear and present danger to the safety of any victim, witness, undercover officer, or other person; or jeopardize a criminal investigation, including records which would disclose the identity of a source wishing to remain confidential or a suspect not in custody; or which would disclose techniques, procedures or guidelines for police department investigations or prosecutions, that portion of the record shall be closed and shall be redacted from any record made available pursuant to this article.
- 3. Any person, attorney for a person, or insurer of a person involved in any incident or whose property is involved in an incident, may obtain any records closed pursuant to this section for purposes of investigation of any civil claim or defense, as provided by this subsection. Any individual, his/her attorney or insurer, involved in an incident or whose property is involved in an incident, upon written request, may obtain a complete unaltered and unedited incident report concerning the incident, and may obtain access to other records closed by the police department pursuant to this section. Within thirty (30) days of such request, the police department shall provide the requested material or file a motion pursuant to this subsection with the Circuit Court having jurisdiction over the police department stating that the safety of the victim, witness or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be

jeopardized. Pursuant to RSMo 610.100(4), if, based on such motion, the court finds for the police department, the court shall either order the record closed or order such portion of the record that should be closed to be redacted from any record made available pursuant to this subsection.

4. The victim of an offense, as provided in RSMo Ch. 566, may request that his/her identity be kept confidential until a charge relating to such incident is filed.

(Ord. No. 2004-3227, § 1, 9-28-04)

Sec. 2-27.15. - Effect of nolle pros, dismissal and suspended imposition of sentence on records.

If the person arrested is charged but the case is subsequently nolle prossed, dismissed, or the accused is found not guilty, or imposition of sentence is suspended in the court in which the action is prosecuted, official records pertaining to the case shall thereafter be closed records when such case is finally terminated except that the disposition portion of the record may be accessed except as provided in this section. If the accused is found not guilty due to mental disease or defect pursuant to RSMo 552.030, official records pertaining to the case shall thereafter be closed records upon such findings, except that the disposition may be accessed only by law enforcement agencies, child care agencies, facilities as defined in RSMo 198.006, and in-home services provider agencies as defined in RSMo 660.250, in the manner established by this section.

(Ord. No. 2004-3227, § 1, 9-28-04)

Sec. 2-27.16. - Public access of closed arrest records.

1. Records required to be closed shall not be destroyed; they shall be inaccessible to the general public and to all persons other than the defendant except as provided in this section and RSMo 43.507. They shall be available to the sentencing advisory commission created in RSMo 558.019, for the purpose of studying sentencing practices, and only to courts, law enforcement agencies, child care agencies, department of revenue for driving record purposes, facilities as defined in RSMo 198.006, in-home services provider agencies as defined in RSMo 660.250, the division of workers' compensation for the purposes of determining eligibility for crime victims' compensation pursuant to RSMo 595.010 to 595.075, and federal agencies for purposes of prosecution, sentencing, parole consideration, criminal justice employment, child care employment, nursing home employment and to federal agencies for such investigative purposes as authorized by law or presidential executive order. These records shall be made available for the above purposes regardless of any previous statutory provision which had closed such records to certain agencies or for certain purposes. All records which are closed records shall be removed from the records of the police department and municipal court which are available to the public and shall be kept in separate records which are to be held confidential and, where possible, pages of the public record shall be retyped or rewritten omitting those portions of the record which deal with the defendant's case. If retyping or rewriting is not feasible because of the permanent nature of the record books, such record entries shall be blacked out and recopied in a confidential book.
2. As used in this section, the term "child care" includes providers and youth services agencies as those terms are defined in RSMo 43.540, elementary and secondary school teachers, and elementary and secondary school bus drivers, whether such drivers are employed by a school or an entity which has contracted with the school to provide transportation services.

(Ord. No. 2004-3227, § 1, 9-28-04)

Sec. 2-27.17. - "911" telephone reports.

Excepted as provided by this section, any information acquired by the police department by way of a complaint or report of a crime made by telephone contact using the emergency number, "911", shall be inaccessible to the general public. However, information consisting of the date, time, specific location and immediate facts and circumstances surrounding the initial report of the crime or incident shall be considered to be an incident report and subject to this section. Any closed records pursuant to this section shall be available upon request by law enforcement agencies or the division of workers' compensation or pursuant to a valid court order authorizing disclosure upon motion and good cause shown.

(Ord. No. 2004-3227, § 1, 9-28-04)

Sec. 2-27.18. - Daily log or record maintained by police department of crimes, accidents or complaints—Public access to certain information.

1. The city police department, if it maintains a daily log or record that lists suspected crimes, accidents, or complaints, shall make available the following information for inspection and copying by the public:
 - a. The time, substance, and location of all complaints or requests for assistance received by the police department;
 - b. The time and nature of the police department's response to all complaints or requests for assistance; and
 - c. If the incident involves an alleged crime or infraction:
 - i. The time, date and location of occurrence;
 - ii. The name and age of any victim, unless the victim is a victim of a crime under RSMo Ch. 566;
 - iii. The factual circumstances surrounding the incident; and
 - iv. A general description of any injuries, property or weapons involved.

(Ord. No. 2004-3227, § 1, 9-28-04)

Sec. 2-27.19. - Severability.

It is hereby declared to be the intention of the city council that each and every part, section and subsection of this section shall be separate and severable from each and every other part, section and subsection hereof and that the city council intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part of this section shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect.

(Ord. No. 2004-3227, § 1, 9-28-04)

Sec. 2-27.20. - [Redesignation.]

The chapter, article, division and/or section assignments designated in this ordinance may be revised and altered in the process of recodifying or servicing the city's Code of Ordinances upon supplementation of such Code, if in the discretion of the editor, an alternative designation would be more reasonable. In adjusting such designations the editor may also change other designations and numerical assignment of the Code sections to accommodate such changes.

(Ord. No. 2004-3227, § 1, 9-28-04)

Sec. 2-27.21. - Effective when.

This section shall be in full force and effect from and after the date of its passage.

(Ord. No. 2004-3227, § 1, 9-28-04)

Editor's note— Ord. No. 2004-3227, § 1, adopted Sept. 28, 2004, repealed the former § 2-27, and enacted a new §§ 2-27—2-27.21 as set out herein. The former § 2-27 pertained to meetings—Open to public; exceptions and derived from Code 1973, § 3.01.5.

State Law reference— When closed meetings by governmental bodies are authorized, RSMo 610.021.

Sec. 2-28. - Parliamentary procedure.

- (a) *Robert's Rules of Order*. Except as otherwise provided by the Charter or by these rules, the proceedings of the council shall be controlled by the latest edition of Robert's Rules of Order, Newly Revised. The presiding officer shall preserve decorum and shall decide all questions of order subject to the council.
- (b) *Order of business*. The order of business of the council shall be as follows:
 - (1) Call meeting to order;
 - (2) Roll call;
 - (3) Petitions, remonstrances, complaints and requests, and the hearing of any person or group desiring to address the council. The council may decide to hear oral discussions of any petitions, remonstrances, complaints, or requests presented by the interested parties appearing in open meeting, or may require such to be presented to the council in writing. In case of oral discussion, such discussion by the interested person(s) shall be limited to five (5) minutes per speaker, except where an extension of time for oral discussion is granted by the council;
 - (4) Public hearings are required by law or ordinance;
 - (5) Consent agenda:

All matters listed under item 5, consent agenda, are considered to be routine by the city council and will be enacted by one motion, followed by a roll call vote. There will be no separate discussion of these items unless discussion on a particular item is requested by a council member. In that event, the item will be removed from the consent agenda and considered separately. Those items on the consent agenda may include, but are not limited to, approval of council meeting minutes; acceptance of board or commission minutes, with approval of their recommendations; approval of requests for licenses; adoption of proclamations and resolutions; and, introduction and first reading of bills;
 - (6) Unfinished business;
 - (7) Manager's reports;
 - (8) Reading of bills that require a second reading for passage;
 - (9) Reading of bills that require a first and second reading of passage;
 - (10) Miscellaneous business;
 - (11) Adjournment.
- (c) *Appeal from ruling of the chair*. Any member may appeal to the council from a ruling of the presiding officer upon a question of order. If the motion for the appeal is seconded, the member making the appeal may briefly state his reason for the same and the presiding officer may briefly express his ruling, but there shall be no debate on the appeal and no other member shall participate in the

discussion. The presiding officer shall then put the question to vote as to whether the decision of the chair shall be sustained. If a majority of the members present vote "aye" the ruling of the chair is sustained, otherwise, it is overruled.

- (d) *Vote required.* Each member shall vote upon every question unless he or she shall have conflict of interest in violation of state law or city ordinance. When requested by any member, the vote upon any question shall be taken by "ayes" and "nays" and recorded.
 - (e) *Dissent from passed actions.* Any member shall have the right to express dissent from or protest against any ordinance or resolution of the council and have the reason therefor entered upon the journal. Such dissent may be filed in writing and presented to the council no later than the next regular meeting following the date of the passage of the ordinance or resolution objected to.
- (Code 1973, § 3.02; Ord. No. 87-2229, § 1, 11-10-87; Ord. No. 87-2230, § 1, 11-10-87; Ord. No. 87-2231, § 1, 11-10-87; Ord. No. 96-2858, § 1, 9-24-96)

Charter reference— Council rules and order of business, § 3.11.2.

Sec. 2-29. - Amendments to rules.

Any rule of the council may be repealed, altered or amended by a majority vote of the members thereof. Every amendment offered shall lie on the table until the next meeting of the council before being voted upon except by the unanimous consent of all elected members. Any rule may be suspended by a majority vote of the members of the council.

(Code 1973, § 3.05; Ord. No. 96-2858, § 1, 9-24-96)

Sec. 2-30. - Ordinances and resolutions.

- (a) *Method of introduction.* All bills and resolutions shall be introduced in the council in written form with the name of the council member introducing same endorsed thereon. All bills shall be prepared by the city attorney or bear his certification that they are in correct form. A copy of all bills shall be sent to each member of the council in advance of the meeting. There shall be attached to such copy a brief resume of the bill as prepared by or for the city manager, and the reasons for the introduction thereof and, if any amendment of an existing ordinance is proposed, the nature of the change sought to be made.
- (b) *Introduction by administrative officers.* Any member of the council may introduce any bill prepared by the administrative officers of the city upon request of the city manager, and any bill introduced by request shall not denote sponsorship of such bill by the councilman so introducing it.
- (c) *Passage procedures.* The following procedures are hereby required of all bills:
 - (1) When any bill is ready for a second reading, the chair shall ask for a motion to read the bill a second time and place it upon its passage. If the motion passes, the bill is read a second time. If a majority of the council fails to vote in favor of the motion, the bill is defeated.
 - (2) After the second reading of a bill there shall be a roll call vote on any proposed ordinance.
- (d) *Amendments to bills.* Any bill shall be subject to amendment until the vote for final passage.

(Code 1973, § 3.03; Ord. No. 94-2710, § 1, 5-10-94)

Charter reference— Procedures for passage of ordinances, resolutions or motions, §§ 3.11.3, 3.11.5.

Sec. 2-31. - Special committees.

- (a) *Method of appointment.* All special committees shall be appointed by the mayor unless otherwise ordered by a majority of the council.

(b) *For public hearings.* By consent of a majority of the council, a special committee may be appointed at any time to hold public hearings for the council upon any matter pending before it.

(Code 1973, § 3.04)

Secs. 2-32—2-45. - Reserved.

ARTICLE III. - OFFICERS AND EMPLOYEES GENERALLY^[3]

Footnotes:

— (3) —

Charter reference— *Officers' and employees' interest in contracts, § 11.2; official bonds, § 11.4; power of certain officers to administer oaths, § 11.10*

Cross reference— *Ordinances pertaining to the compensation of any city officer or employee saved from repeal, § 1-8(8); coordinator of department of civil defense, § 10-17; clerk of municipal court and of the traffic violations bureau, § 13-7; municipal judge, § 13-26 et seq.; fire chief designated commanding officer of fire department, § 17-16; assistant fire chief, § 17-20; fire marshal, § 17-37; chief of police designated commanding officer of police department, § 33-16; assistant chief of police, § 33-19, city traffic engineer, § 44-32.*

DIVISION 1. - GENERALLY

Sec. 2-46. - Qualifications.

No person shall be entitled to hold any office or employment of the city who is in arrears for any taxes due the city.

(Charter 1954, § 116)

Sec. 2-47. - Compensation.

The council shall authorize by ordinance the salaries or other compensation of all officers and employees of the city, not exceeding, however, the amount recommended by the city manager. The council shall establish the minimum and maximum salaries or other compensation of all officers and employees in the classified service of the city. In no case shall the salary or compensation of any officer or employee of the city be based upon or measured by fees.

(Ord. No. 85-2054, § 1(4.03), 2-12-85)

Sec. 2-48. - Failure of officers to perform duties.

The failure of any officer or employee of the city to perform any official duty imposed by this Code shall not be an offense and shall not subject such officer or employee to the penalty imposed for violation of this Code unless a penalty is specifically provided.

(Code 1973, § 1.06(f))

Sec. 2-49. - Expenses of public officials and employees.

- (a) Pursuant to Section 105.272 of the Revised Statutes of Missouri, the city elects to pay expenses incurred by its elected and appointed officials and employees in the performance of the official business of the city.
- (b) The expenses to be paid shall refer only to expenses actually and necessarily incurred by an elected or appointed official or an employee in the performance of the official business of the city. These expenses would include hotel/motel room, meals, travel, registration, tips, tolls, cabfare, parking fees, honorariums, and any telephone calls necessary for the trip.

- (c) In order to be reimbursed for these expenses, the official or employee must submit a voucher of claimed expenses which must be certified by the official or employee as being true and correct. Vouchers must be submitted to the finance director within thirty (30) days of the expenditure in order to be reimbursed. The finance director shall be responsible for reviewing such vouchers of expenses and for ensuring reimbursement of only those expenses of officials and employees properly incurred.
- (d) The finance director may authorize cash advances in particular instances when the projected expenses to be incurred by the official or employee would pose a financial burden on said person. If the finance director authorizes an advance, then the voucher for the expenses actually and necessarily incurred and the balance of the advance remaining after the expenditure shall be submitted to the finance director as provided in subsection (c) of this section, within ten (10) days after such expenses are actually incurred.

(Ord. No. 95-2771, § 1, 4-25-95)

Secs. 2-50—2-60. - Reserved.

DIVISION 2. - CITY MANAGER^[4]

Footnotes:

-- (4) --

Charter reference— *City manager, Art. IV.*

Sec. 2-61. - Authority to sign contracts, etc.

The city manager is hereby authorized and directed to execute the following agreements, contracts and arrangements on behalf of the city without further action by the council:

- (1) All purchase orders;
- (2) Escrow agreements for subdivision improvements;
- (3) Escrow agreements for subdivision improvement maintenance;
- (4) Agreements and arrangements between city and property owners for entry upon property to abate a nuisance where cost of abatement shall be a lien on property in form of a special tax bill;
- (5) Agreements and arrangements approved by council or plan commission with respect to zoning or subdivision regulations and requirements between the city and owners of property or subdivisions of property;
- (6) Similar agreements, contracts and arrangements which shall involve the city wherein matters are administrative in nature and the agreement or contract does not involve the purchase or sale of city property, contracting for public improvements to be paid by special tax bill or the expenditure of public funds not specifically provided for in the budget for the fiscal year in which the contract or agreement is executed unless such contract or agreement is approved prior thereto by the council or is otherwise authorized by the Charter or this Code or other ordinance of the city.

(Code 1973, § 4.14; Ord. No. 85-2054, § 1(4.23), 2-12-85)

Sec. 2-62. - Authority to extend contracts.

The city manager is given the authority, on a case-by-case basis, with the approval of at least five (5) members of the city council, to extend contracts for services rendered to the city prior to the expiration date of said contracts, for no more than two (2) additional periods of time, not to exceed a total of five (5)

years, only so long as the charges contained in the extended contracts do not exceed the current level of charges contained in the current contract.

(Ord. No. 95-2803, § 1, 11-28-95)

Secs. 2-63—2-75. - Reserved.

DIVISION 3. - CITY CLERK^[5]

Footnotes:

— (5) —

Charter reference— *City clerk, § 3.8.*

Sec. 2-76. - Duties—Generally.

The city clerk shall be, ex officio, clerk of the council and shall perform such duties as may be provided by the Charter and by this Code, and as may be ordered by the mayor or the council. Within four (4) days after each meeting, the clerk shall furnish each councilman with a copy of the minutes of the preceding meeting.

(Code 1973, § 3.06.2.1)

Sec. 2-77. - Same—Preparation of agenda.

In advance of each meeting of the council, the city clerk shall prepare an agenda of matters to be presented to the council at each such meeting, and shall prepare a docket showing the present status of all matters presently pending before the council.

(Code 1973, § 3.06.2.2)

Sec. 2-78. - Same—Posting bills.

The city clerk shall post copies of all bills pending before the council on a bulletin board placed in a conspicuous place in the lobby of the city hall, as provided in Charter section 3.11.5, together with notices of all other meetings or matters deemed to be of interest to the public.

(Code 1973, § 3.06.2.3)

Sec. 2-79. - Deputy and assistant deputy city clerk.

- (a) There are hereby created the offices of deputy city clerk and assistant deputy city clerk. The deputy city clerk and assistant deputy city clerk shall be appointed by the council and shall hold office at the pleasure of the council.
- (b) It shall be the duty of the deputy city clerk to perform the duties of the city clerk in the temporary absence or disability, for any reason, of the city clerk. It shall be the duty of the assistant deputy city clerk to perform the duties of the city clerk in the temporary absence or disability, for any reason, of the city clerk, and the deputy city clerk.

(Ord. No. 95-2759, § 1, 2-28-95)

Editor's note— Ord. No. 95-2759, adopted Feb. 28, 1995, repealed § 2-79, and enacted a new § 2-79 in its place. Prior to repeal, former § 2-79 pertained to the deputy city clerk as derived from the Code of 1973, § 4.02, and Ord. No. 85-2054, adopted Feb. 12, 1985.

Secs. 2-80—2-90. - Reserved.

DIVISION 4. - CITY ATTORNEY^[6]

Footnotes:

--- (6) ---

Cross reference— *Court, Ch. 13; city attorney designated as municipal prosecutor, § 13-5.*

Sec. 2-91. - Generally.

The city attorney shall attend all meetings of the council unless excused by the council. Any member of the council may at any time call upon the city attorney for an oral or written opinion to decide any question of law, but not to decide upon any parliamentary rules.

(Code 1973, § 3.06.1)

Sec. 2-92. - Assistant to city attorney.

The city attorney, with the approval of the city manager, may appoint a suitable person as assistant city attorney. Such appointee shall have all of the qualifications prescribed for a city attorney. The assistant city attorney shall assist the city attorney in all legal matters connected with the city.

(Code 1973, § 4.01)

Secs. 2-93—2-200. - Reserved.

ARTICLE IV. - DEPARTMENTS^[7]

Footnotes:

--- (7) ---

Cross reference— *Department of civil defense, § 10-16 et seq.; fire department, § 17-16 et seq.; police department, § 33-16 et seq.; department of public works, division of sanitation, § 37-2.*

DIVISION 1. - GENERALLY

Sec. 2-201. - Heads of departments; powers in general.

At the head of each department there shall be a director who shall be an officer of the city and who shall have supervision, control and assignment of personnel in the department, subject to the authority of the city manager. Except as otherwise provided in the Charter, this Code or any other ordinance of the city, all directors of all departments shall be appointed by the city manager.

(Ord. No. 85-2054, § 1(4.02), 2-12-85)

Secs. 2-202—2-210. - Reserved.

DIVISION 2. - DEPARTMENT OF LAW; MUNICIPAL COURT^[8]

Footnotes:

--- (8) ---

Cross reference— *Court, Ch. 13.*

Sec. 2-211. - Established; city attorney as director.

There is hereby established a department of law, the director of which shall be known as the city attorney. The city attorney shall be appointed by the city manager with the approval of the council. He shall have been a duly licensed attorney of the state for at least three (3) years immediately prior to his

appointment and shall have been actively engaged in the general practice of law during such three-year period.

(Ord. No. 85-2054, § 1(4.08), 2-12-85)

Sec. 2-212. - Powers and duties of city attorney.

The city attorney shall have the power and be required to:

- (1) Conduct and carry on all civil suits, actions and proceedings on behalf of the city, represent the city in all legal matters in which the city is a part or is interested, and unless otherwise provided by ordinance, represent the city in all cases before the municipal court or before associate circuit judges hearing the violations of municipal ordinances;
- (2) Advise the council or any committee or member thereof, the city manager, and the heads of the departments, boards, commissions and offices concerning any legal question affecting the city's interest;
- (3) When requested by the council or any member thereof, or by the city manager, draft proposed city ordinances or amendments thereto;
- (4) Prepare or officially approve, as to legal form, all contracts, deeds, bonds and other documents to be signed in the name of, or made to, with or for the benefit of the city, endorsing his approval in writing;
- (5) See to the enforcement of all ordinances, franchises, and public service commission rules and regulations relating to privately-owned utilities operating in the city and represent the city in the courts and before all public regulatory bodies in connection therewith;
- (6) Perform such other legal duties as the council may by ordinance or resolution require.

(Ord. No. 85-2054, § 1(4.09), 2-12-85)

State Law reference— City to designate attorney to prosecute violations, RSMo 479.120.

Sec. 2-213. - Assistant city attorneys; special counsel.

The council shall provide for such assistant city attorneys as it may deem necessary, who shall be appointed by the city attorney with the approval of the city manager. The assistant city attorneys shall assist the city attorney in his official duties and when authorized by ordinance, may exercise any of the powers of the city attorney under his direction. The city council may also employ special counsel from time to time as it deems necessary.

(Ord. No. 85-2054, § 1(4.10), 2-12-85)

Sec. 2-214. - Municipal court—Jurisdiction; powers.

- (a) There shall be a municipal court which shall have original jurisdiction to hear and determine all cases involving violations of the provisions of the Charter, this Code and the other ordinances of the city, subject to appeal by either party to the circuit court in the same manner as provided by law for appeals from magistrate courts in the county in criminal cases.
- (b) The municipal court may punish contempt of court in the same manner and to the same extent as is authorized by law for courts of record, issued warrants of arrest and search warrants as authorized by law upon application of the city attorney, assistant city attorneys or chief of police and may

summon and compel the attendance of witnesses. The fees of witnesses shall be the same as those fixed for witnesses in trials before associate circuit judges and shall be taxes as other costs in the case.

- (c) The municipal court may also administer oaths, summon and compel the attendance of jurors when a jury is allowed, pass upon the competency of evidence, render final judgment on any forfeited bond or recognizance returnable to such court, subject to appeal as provided by law and may assess court costs not to exceed twelve dollars (\$12.00) per case for each municipal ordinance violation. The authorized cost is in addition to service costs, witness fees and jail costs that may otherwise be assessed.

(Ord. No. 85-2054, § 1(4.11), 2-12-85)

State Law reference— Municipal courts, RSMo Ch. 479.

Sec. 2-215. - Same—Proceedings.

- (a) The forms of complaints and the conduct of all proceedings in the municipal court shall be prescribed by law or by ordinance.
- (b) The council shall designate the place and the municipal judge shall designate the time for sessions of the municipal court.

(Ord. No. 85-2054, § 1(4.13, 4.16), 2-12-85)

Sec. 2-216. - Same—Marshal.

The chief of police and his subordinates shall serve as marshal and deputy marshals of the municipal court and enforce its orders, judgments and decrees.

(Ord. No. 85-2054, § 1(4.15), 2-12-85)

Cross reference— Police, Ch. 21.

Sec. 2-217. - municipal judge—Generally.

The municipal court shall be presided over by a municipal judge who shall be an attorney-at-law, elected by the city council on nomination of the city manager for a term of two (2) years. The municipal judge shall be subject to the rules of the circuit court which are not inconsistent with the rules of the state supreme court.

(Ord. No. 85-2054, § 1(4.12), 2-12-85; Ord. No. 89-2377, § 1, 8-29-89)

Cross reference— Municipal judge, § 13-26 et seq.

State Law reference— Selection, tenure, jurisdiction, qualifications of municipal judges, RSMo 479.020(1)—(5), (7).

Sec. 2-218. - Same—Salary; costs; fines.

The municipal judge shall receive such compensation as may be fixed by ordinance. Such compensation shall not be dependent in any way upon the number of cases tried, the number of guilty verdicts reached or the amount of fines imposed or collected. All costs, fines and forfeitures imposed by the municipal court or collected under its authority and all other receipts so collected shall be regularly accounted for by the municipal judge and paid into the city treasury not less frequently than monthly for the use and benefit of the city.

State Law reference— Similar provisions, RSMo 479.020(6), 479.080(1).

Secs. 2-219—2-225. - Reserved.

DIVISION 3. - DEPARTMENT OF FINANCE; DIVISION OF PURCHASES

Sec. 2-226. - Department of finance established; director.

- (a) There is hereby established a department of finance, the director of which shall be the city manager, unless otherwise provided by the council, in which event, the director shall be appointed by the city manager.
- (b) The director of finance shall have knowledge of municipal accounting and taxation and shall have experience in budgeting and financial control. He shall have charge of the administration of the financial affairs of the city, subject to the supervision and direction of the city manager, and to that end, he shall have authority and be required to:
 - (1) Keep books of account of the receipts and expenditures of all departments and offices of the city;
 - (2) Keep accurate detailed accounts of:
 - a. All taxes assessed by the city and all money due to the city from every source;
 - b. Moneys received and the several sources from which derived;
 - c. All funds of the city and disbursements made therefrom and all obligations incurred;
 - (3) Prescribed uniform methods of keeping accounts conforming to state law for all departments and offices of the city;
 - (4) Examine and audit all accounts and claims against the city except claims for unliquidated damages. He shall not issue any draft, check or warrant until he shall have verified the correctness of the account for which it is issued; neither shall he allow the payment of any account unless the money shall have been appropriated therefor, nor shall he issue or sign any draft, check, or warrant for any account against the city unless sufficient money is in the fund on which it is drawn; provided, however, that the director of finance may, on instructions of the city manager, make advances of cash from funds which have a cash surplus to other funds in anticipation of future collections of revenue to be credited to these funds;
 - (5) At the close of the fiscal year, and at any time upon the direction of the council, examine and audit all books of account kept by any official, board, commission or department;
 - (6) Balance the books of account of all departments and offices of the city each calendar month under the direction of the city manager, who shall make monthly public financial statements to the council;
 - (7) Present to the council annually, and whenever required by the council, a detailed statement of the financial condition of the city, which shall include all receipts and expenditures of the various departments and offices of the city, a detailed statement of the debt of the city and the purpose for which it was incurred and an inventory of all real estate, personal property, supplies and equipment of the city, with both their cost and estimated current value;
 - (8) Serve as treasurer of the city and have custody of all public funds belonging to or under the control of the city, or any office, department or agency of the city government, deposit all funds coming into his hands in such depositories as may be designated by resolution of the council, or, if no such resolution be adopted, in such depositories as may be designated by the city manager, subject to the requirements of law as to surety and the payment of interest on deposits;

- (9) Have custody of all investments and invested funds of the city government, or in possession of the government in a fiduciary capacity, have the safekeeping of all bonds, notes, or other evidences of indebtedness of the city and be responsible for the receipt and delivery of these for transfer, registration, or exchange;
- (10) Have supervision and direction of the collection of all taxes, special assessments, license fees and other revenues of the city or those for the collection of which the city is responsible, and receive all money receivable by the city from the state or federal government, or from any court, or from any office, department, or agency of the city, or from any source;
- (11) Have supervision and direction of the collection of all moneys due the city from any other source unless otherwise provided by ordinance. All moneys due the city collected by any other officers or employees of the city shall be accounted for and paid into the city treasury promptly;
- (12) Arrange for the assessment of all taxable property within the city in such manner as may be prescribed by the council and in accordance with law.

(Ord. No. 85-2054, § 1(4.21), 2-12-85)

Sec. 2-227. - Division of purchases established; director.

- (a) There shall be established within the department of finance a division of purchases, the head of which shall be the purchasing agent, who shall be the director of finance or some one appointed by him with the approval of the city manager.
- (b) The purchasing agent shall contract for, purchase, store and distribute all supplies, materials and equipment required by any office, department, board or other agency of this city. He shall also have power to and shall be required to:
 - (1) Establish and enforce specifications with respect to supplies, materials and equipment purchased by the city;
 - (2) Inspect or supervise the inspection of all deliveries of supplies, materials and equipment, and determine their quality, quantity and conformity with specifications;
 - (3) Have charge of such general storerooms and warehouses as the city may maintain;
 - (4) Transfer to or between offices, departments or agencies, or, with the approval of the council, sell surplus, obsolete or unused supplies, materials or equipment.

(Ord. No. 85-2054, § 1(4.22), 2-12-85)

Cross reference— Equal opportunity requirement for contractors, suppliers and bidders doing business with the city, §§ 21-2, 21-3.

Secs. 2-228—2-235. - Reserved.

DIVISION 4. - FIRE DEPARTMENT^[9]

Footnotes:

--- (9) ---

Cross reference— Fire department, § 17-16 et seq.

Sec. 2-236. - Fire department director.

The director of the fire department shall be the fire chief. The fire chief shall be appointed by the city manager on the basis of his administrative abilities and his qualifications for the fighting and prevention of fires.

(Ord. No. 85-2054, § 1(4.18), 2-12-85)

State Law reference— City police and fire departments generally, RSMo Ch. 85.

Secs. 2-237—2-240. - Reserved.

DIVISION 5. - PARKS AND RECREATION DEPARTMENT^[10]

Footnotes:

— (10) —

Cross reference— *Parks and recreation, Ch. 30.*

State Law reference— *Parks and recreation, RSMo Ch. 90.*

Sec. 2-241. - Established; director.

There is hereby established a parks and recreation department, the director of which shall be the director of parks and recreation. The director of parks and recreation shall be appointed by the city manager on the basis of his administrative abilities and his qualifications for the position.

(Ord. No. 85-2054, § 1(4.29), 2-12-85)

Sec. 2-242. - Powers and duties of director of parks and recreation.

The director of parks and recreation shall have charge of the planning, supervision, general maintenance and repair of all parks, playgrounds, park buildings, playground and park equipment, lakes, swimming pools, golf courses, recreation centers, camps and all other park, playground and recreational facilities and appurtenances, but such duties shall not include the physical construction and improvements and the physical maintenance of the above park, playground, and recreational facilities which responsibility shall be the duty of the director of public works.

(Ord. No. 85-2054, § 1(4.30), 2-12-85)

Secs. 2-243—2-250. - Reserved.

DIVISION 6. - POLICE DEPARTMENT^[11]

Footnotes:

— (11) —

Cross reference— *Police department, § 33-16 et seq.*

Sec. 2-251. - Police department; director; officers.

- (a) The director of the police department shall be chief of police. The chief of police shall be appointed by the city manager on the basis of his administrative abilities and his qualifications as a law enforcement officer.
- (b) The chief of police and all police officers shall have power at all times, with proper process, to make or order an arrest for any offense against the ordinances of the city or laws of the state, and to keep the offender in the city prison or other proper place to prevent escape until a trial can be had before a proper officer, unless such offender shall give a good and sufficient bond for his appearance for trial. The chief of police or other police officers shall, without a warrant, make arrests of any person who commits an offense in their presence, but such officer shall, before the trial, file a written complaint with the municipal judge hearing violations of municipal ordinances.

(c) All police officers shall be conservators of the peace and shall be active and vigilant in the preservation of good order within the city.

(Ord. No. 85-2054, § 1(4.17), 2-12-85)

State Law reference— City police and fire departments generally, RSMo Ch. 85; powers of arrest of municipal police officers, RSMo 544.216.

Secs. 2-252—2-260. - Reserved.

DIVISION 7. - DEPARTMENT OF PUBLIC WORKS

Sec. 2-261. - Established; director.

There is hereby established the department of public works, the director of which shall be the director of public works. The director of public works shall be appointed by the city manager on the basis of his administrative abilities and his qualifications for the position.

(Ord. No. 85-2054, § 1(4.19), 2-12-85)

Sec. 2-262. - Powers and duties of the director of public works.

(a) The director of public works shall have charge of:

- (1) The designing, construction, reconstruction, supervision and repair of all municipal buildings, bridges, viaducts, waterways, sewers, drains, levees, airports, public market facilities, off-street parking facilities, tunnels and structures, including alterations, replacements, additions and appurtenances and maintenances thereof;
- (2) Consistent with policies of the park and recreation advisory board, the physical construction and improvement and the physical maintenance of all parks, parkways, playgrounds, golf courses, recreation centers, camps, swimming pools and all other city-owned land and buildings to be used for recreational purposes;
- (3) The grading and improvement of all streets, alleys, highways, sidewalk spaces and public ways, and keeping them open, safe and clean;
- (4) The construction, reconstruction, repair and maintenance of all pavements, curbs, and sidewalks;
- (5) The collection, treatment and disposal of garbage, ashes and refuse;
- (6) The lighting of public grounds and highways, the laying of conduits, the location, erection, and construction of poles and all structures, in, on, or over public grounds and highways, the granting of all permits to excavate into or disturb any highway or public property or to make any special use thereof;
- (7) The inspection of gas, plumbing, electrical wiring and equipment, boilers, elevators, smoke, sanitary and safety equipment of all buildings and structures within the city, and such other inspections as the council may by ordinance prescribe. The council may by ordinance, upon the advice of the city manager, provide for cooperation with county officers when such inspections are deemed adequate by the director and the city manager;
- (8) The issuance and revocation of all building permits and the administration of all building and zoning ordinances;
- (9) The making and keeping of records of all plats, surveys, drawings and estimates, and the furnishing of all information and reports relating to public works and the department of public works as may be required by the city manager;

- (10) The making and keeping of records of location, direction, depth and connection of all underground structures and equipment;
 - (11) The drafting of a building code and amendments thereto for adoption by the city council;
 - (12) The supervision and control, as far as the city can by law exercise it, over all privately-owned or operated public utilities in the city, and the enforcement of the terms of all franchises and ordinances relating to such utilities.
- (b) The director of public works shall perform such additional duties not herein specifically set out as may be required by law, by ordinance, or by the city manager.

(Ord. No. 85-2054, § 1(4.20), 2-12-85)

Cross reference— Powers and duties of director of public works regarding division of sanitation, §§ 37-2, 37-32.

Sec. 2-263. - Powers and duties of the public safety director.

The public safety director shall have charge of the police department and the fire department and shall be immediate supervisor of the police chief and the fire chief who shall both report directly to him. Nothing contained herein shall prohibit either the police chief or the fire chief from serving as the public safety director.

(Ord. No. 2001-3126, § 1, 7-24-01)

Secs. 2-264—2-369. - Reserved.

DIVISION 8. - DEPARTMENT OF PLANNING AND DEVELOPMENT^[12]

Footnotes:

--- (12) ---

Cross reference— *Zoning, ch. 49.*

Sec. 2-370. - Established; director.

There is hereby established the department of planning and development, the director of which shall be the director of planning and development. The director of planning and development shall be appointed by the city manager on the basis of his administrative abilities and his qualifications for the position.

(Ord. No. 2004-3210, § 1, 3-30-04)

Sec. 2-371. - Powers and duties of the director of planning and development.

- (a) The director of planning and development shall have charge of:
- (1) Directing, planning, controlling, and administering economic and urban development programs for the city, including, current and long-range urban land use planning, housing, and neighborhood redevelopment, including the use of federal funds, and economic development. Providing both technical and policy support to the city manager on all land use and development matters, developing cooperative relationships with businesses, industry, and industrial and professional associations, financial institutions, foundations, and not-for-profit organizations to stimulate interest and active participation in sponsoring and developing opportunities and economic development activities within the city, coordinating, negotiating and preparation of all (re)development documents and agreements.

- (2) Developing direction and policy for orderly and safe development of the community to include current and long-range land use planning.
- (3) Supervising functions of the department of planning and development to include planning, organizing, directing and managing the work of the department, staff selection, development, hiring, performance appraisal, and other personnel functions.
- (4) Prepare appropriate legislation for action by city council and attend all city council meetings.
- (5) Negotiate and administer development and redevelopment agreements with private developers.
- (6) Retain overall responsibility for coordination with associated boards and commissions to include research and recommendations on items being considered by the boards and commissions.
- (7) Preparing departmental budgets to include recommendations to the city council of projects to be funded; reviewing purchase requests, contracts, payments, and budget performance.
- (8) Planning, coordinating, and directing the city's economic development program including activities associated with the recruitment and attraction of private investment, retention and expansion of the existing employment base, identifying opportunities and implementing plans for redevelopment and other duties associated with the expansion of the city's tax and employment base.
- (9) Coordinating task forces and/or round tables which may be used as mechanisms for policy making, coordination, development, and improvements of city procedures.
- (10) Maintaining a relationship with state, federal and local agencies that have concerns with economic and industrial development.
- (11) Interpreting and identifying economic needs of the community.
- (12) Assisting individual businesses and resolving problems with city procedures and regulations.
- (13) Developing and maintaining an effective knowledge of environmental factors impacting economic development.
- (14) Maintaining a list of commercial and industrial buildings and sites available for development.
- (15) Preparing, monitoring and coordinating the administration of economic development plans and projects and administering the tax increment financing districts of the city.
- (16) Researching economic development activities and undertaking special economic development projects as directed.
- (17) Acting as the city staff liaison with the Ferguson Downtown Business District, the Ferguson Station Business District, and the various chambers of commerce and all other business organizations.
- (18) Preparing and maintaining various reports and administering departmental public relations to include interaction with various forms of media to include radio and television.
- (19) Performing all other related work as directed by the city manager or by the nature of the position.

(Ord. No. 2004-3210, § 1, 3-30-04)

Sec. 2-372. - Powers and duties of the planning and development coordinator.

(a) The planning and development coordinator shall have charge of:

- (1) Responsibility for professional level work in urban planning and coordination of economic development projects.
- (2)

Providing technical support and assistance to the director of planning and development in the development and implementation of current planning and economic development programs and projects.

- (3) Researching local ordinances and state statutes, compiling data and gathering information as to local development history for the director of planning and development.
- (4) As directed by the director of planning and development being responsible for the accomplishment of the planning and economic development goals of the city.
- (5) Providing recommendations to the planning and development director on the appropriateness of special use permits and zoning text amendment requests as relating to planning and development.
- (6) Researching local ordinance and state statutes and obtaining information regarding local development history for staff use and review.
- (7) Utilizing GIS and performing simple and complex spatial analysis and mapping applications, by using the appropriate software.
- (8) Making recommendations to the planning and development director regarding developing and revising applicable city codes, policies, procedures and projects in reference to planning and development.
- (9) Having advisory responsibility for hiring decisions for the planning and development staff.
- (10) At the direction of the planning and development director serving as project manager for major activities and specific projects related to city current planning and development.
- (11) At the direction of the planning and development director providing staff support for the city plan commission and for the other city boards and commissions and providing the city council materials for meetings including memos, maps, and other information as needed in relation to planning and development.
- (12) Making presentations to government officials and citizens including the plan commission and the city council in reference to planning and development matters.
- (13) At the direction of the planning and development director reviewing plan commission agendas and cases including recommendations and providing alternate recommendations if applicable.
- (14) Attending all plan commission meetings and all other boards and commissions meetings as directed and as needed and attending city council meetings as directed by the director of planning and development and attending all other boards and commissions meetings as requested.
- (15) Assisting the appropriate city officials with the development of programming for the city's capital improvements plan.
- (16) At the direction of the planning and development director coordinating planning efforts with all city departments along with other planning entities within the city and county.
- (17) Researching, writing and negotiating proposals in reference to annexation projects as they arise.
- (18) Monitoring all obligations required by development and annexation agreements.
- (19) Responding to new business inquiries and providing technical assistance as required.
- (20) Developing, managing, marketing, and evaluating incentive programs for economic development.
- (21)

Preparing requests for proposals (RFPs) and requests for qualifications (RFQs) and development agreements for consultants and developers for tax increment finance projects.

(22) Monitoring and updating departmental policies for planning and development.

(23) Perform other related duties as assigned.

(Ord. No. 2004-3210, § 1, 3-30-04)

Secs. 2-373—2-380. - Reserved.

ARTICLE V. - BOARDS, COMMISSIONS AND COMMITTEES^[13]

Footnotes:

— (13) —

Cross reference— *Architectural board, § 7-16 et seq.; bureau of fire prevention, § 17-36 et seq.; community relations commission, §§ 21-31, 21-32; municipal library district board, § 24-16 et seq.; park and recreation advisory board, § 30-16 et seq.; traffic commission, § 44-31.*

DIVISION 1. - GENERALLY

Sec. 2-381. - Vacancies; terms; removal of members.

- (a) Vacancies on any board or commission occasioned by removal, resignations or otherwise, shall be reported to the council, and filled in a like manner as original appointments, except that if a vacancy is an unexpired term, the appointment shall be made only for the unexpired portion of that term.
- (b) No member of any board or commission of the city, except the library board members (see section 24-20), shall serve for more than two (2) successive full terms and shall not be eligible for further appointment to the same board or commission until one (1) year after the expiration of the second full term. Such members shall immediately cease to serve upon the expiration of the second full term. However, notwithstanding the foregoing term limitation, if a willing successor for such member's position is not presented to the council within six (6) months to fill the existing vacancy created upon the expiration of the member's term, then such member is eligible for consideration for reappointment to such board or commission. Further, no person shall serve on more than one board or commission at the same time and no member of any board or commission may be transferred to any other board or commission during that member's term.
- (c) Both the term limitations and limitations on appointment established in subparagraph (b) of this section shall not apply to any person who is appointed to an advisory board which is established by the council to fulfill a certain purpose and which is temporary in nature.
- (d) Unless otherwise provided for in this Code, appointments to fill expired terms of members to boards, commissions and committees shall be made during the month of June to be effective July 1 of each year.
- (e) The failure of any member of a board, commission or committee to perform his official duties imposed by this Code shall be cause for removal.
- (f) No person shall be appointed to any board, commission, or committee of the city who is in arrears for any taxes due the city. If any member of any board, commission, or committee, during his term, becomes delinquent for any taxes due the city, said delinquency shall be cause for removal.

(Ord. No. 85-2054, § 1(4.39), 2-12-85; Ord. No. 87-2232, § 1, 11-10-87; Ord. No. 87-2242, § 1, 12-8-87; Ord. No. 96-2869, § 1, 11-12-96; Ord. No. 98-3010, § 1, 10-27-98; Ord. No. 2007-3324, § 1, 8-28-07)

Secs. 2-382—2-390. - Reserved.

DIVISION 2. - BOARD OF ADJUSTMENT^[14]

Footnotes:

— (14) —

Cross reference— *Zoning, Ch. 49.*

State Law reference— *Municipal boards of adjustment, RSMo 89.080 et seq.*

Sec. 2-391. - Board of adjustment.

There is hereby established a board of adjustment, the appointment of which shall be provided by the council in accordance with state law. The board of adjustment shall have the powers and duties provided for such board by state law and ordinances of the council.

(Ord. No. 85-2054, § 1(4.43), 2-12-85)

Secs. 2-392—2-400. - Reserved.

DIVISION 3. - CITY PLAN COMMISSION^[15]

Footnotes:

— (15) —

Cross reference— *Approval of kennel permits, § 6-14(a); zoning, Ch. 49.*

State Law reference— *Municipal planning commissions, RSMo 89.310 et seq.*

Sec. 2-401. - Established; composition.

- (a) There is hereby established a city plan commission which shall consist of seven (7) members appointed by the council who shall serve without pay. Terms of members appointed by the council shall be for four (4) years, arranged so that the terms of two (2) members shall expire each year except for the fourth year. Such members shall be qualified voters, residents of the city for at least two (2) years immediately prior to their appointment, and shall hold no other office in the municipal government.
- (b) The city manager, director of public works and a councilman selected by the council shall attend meetings of the city plan commission and shall have the right of discussion but shall not be entitled to vote.
- (c) The city plan commission shall elect its chairman annually from among the appointive members, and shall have authority to employ such assistants and technical advisors as it considers necessary, within the limits of its budget appropriations.

(Ord. No. 85-2054, § 1(4.40), 2-12-85)

Sec. 2-402. - Designated planning commission.

The city plan commission is hereby designated the city's planning commission within the meaning of Charter section 5.1.

Sec. 2-403. - Powers and duties generally.

The city plan commission shall have authority to prepare and submit to the council for its approval a master plan for the development of the city and to recommend from time to time, but not less than annually, such modification of the plan as it deems necessary in the interests of the city. The master plan may include, among other things:

- (1) The general location, character and extent of streets, bridges, parks and playgrounds, waterways and other public ways, grounds and spaces;
- (2) The general location and extent of public property and public buildings;
- (3) The general location and extent of public utilities, whether publicly or privately owned;
- (4) The removal, relocation, abandonment or change of use of such existing or future public ways, grounds, spaces, buildings, property or utilities;
- (5) The general location, character and extent of residential, commercial, industrial and other uses of land;
- (6) The general location and extent of any public housing or slum clearance projects.

(Ord. No. 85-2054, § 1(4.41), 2-12-85)

Sec. 2-404. - Powers as zoning commission.

- (a) The city plan commission shall also act as the zoning commission, and shall have authority to prepare, adopt and recommend to the council for enactment into ordinance, a comprehensive plan for zoning the city, with such regulations as to the location, height, width and bulk of buildings and other structures, and the size of yards, courts and other open spaces surrounding them and the use of such buildings, structures and lands as it shall determine to be necessary or desirable for the promotion of the health, safety, morals or general welfare of the inhabitants of the city.
- (b) The city plan commission, as zoning commission, shall have power to hear applications for amendments, modifications or revisions of the zoning ordinance, and shall forward the applications to the council with its recommendations. The recommendations of the commission shall not be binding on the council, which may approve or disapprove the commission's findings; provided, however, no general city plan or zoning ordinance, or modification, amendment or revision shall be considered by the council unless it shall have been first submitted to the commission for its examination and recommendation.

(Ord. No. 85-2054, § 1(4.42), 2-12-85)

Sec. 2-405. - Subdivision regulations; plats.

- (a) All plats of proposed subdivisions presented to the council for approval shall be submitted to the city plan commission, which shall make recommendations to the council with respect to them. The city plan commission may prepare and adopt regulations governing the subdivision of land. These regulations may include, but not by way of limitation, provisions for the proper location and width of streets, sidewalks, building lines, open spaces, minimum width and area of lots, street and sidewalk grading and paving, sewers, water and other utilities. These regulations shall become effective after they have been approved and adopted by the council.
- (b) In lieu of the immediate completion or installation of the improvements required under the regulations, the council may provide for the acceptance of bond to the city in an amount and with surety and conditions prescribed by the council. The bond shall provide and secure to the city the actual construction within the period prescribed by the regulations.

(Ord. No. 85-2054, § 1(4.44), 2-12-85)

State Law reference— Plat approval procedures, RSMo 89.400 et seq.; plats, RSMo Ch. 445.

Secs. 2-406—2-415. - Reserved.

DIVISION 4. - LANDMARK COMMISSION^[16]

Footnotes:

— (16) —

Editor's note—Ord. No. 2006-3286, §§ 1—10, adopted Sept. 26, 2006, did not specifically amend the Code. At the editor's discretion, said provisions have been included herein as §§ 2-416—2-425.

Sec. 2-416. - Established.

There is hereby established a landmark commission of the city, which shall be an advisory body to the city council, with respect to matters of historical significance and its study of buildings and structures in the city which have historical or architectural significance.

(Ord. No. 2006-3286, § 1, 9-26-06)

Sec. 2-417. - Composition; appointment.

The landmarks commission shall consist of seven (7) members, who serve for a term of three (3) years. Members shall be residents of the city, and shall be persons who have some experience in historical research or who are experienced or interested in the field of architecture and/or preservation, or who are interested in the study and development of local history, either in the city or elsewhere. Members of the "historical commission" now serving terms shall continue to serve the remainder of their terms as members of the landmarks commission. Appointments to the landmarks commission shall be made by the city council; vacancies shall be filled by the city council for the unexpired term of the position vacated.

(Ord. No. 2006-3286, § 2, 9-26-06)

Sec. 2-418. - Compensation.

Commission members shall serve without compensation.

(Ord. No. 2006-3286, § 3, 9-26-06)

Sec. 2-419. - Members subject to removal.

Members of the commission shall serve at the pleasure of the city council and may be removed by a majority of the members of the city council upon notice to the member who is subject to removal and an opportunity for that member to address the city council.

(Ord. No. 2006-3286, § 4, 9-26-06)

Sec. 2-420. - Rules of procedure.

The commission shall act in accordance with state law, the city charter and ordinances of the city. The commission shall conduct all proceedings in accordance with Missouri's Sunshine Law, Chapter 610, RSMo and the city's policy relating to open meetings and records. However, the commission may establish rules of procedure not inconsistent with any applicable law or ordinance.

(Ord. No. 2006-3286, § 5, 9-26-06)

Sec. 2-421. - Purpose of commission.

The purpose of the landmarks commission is to:

- Promote and encourage historical research with respect to the city;
- To foster and promote public knowledge of and interest in the history of the city, as well as other local and national history;

- To study all buildings and structures located in the city which have historical or architectural significance; and
- To make recommendations to the city council relating to acquisition of historical sites, possible regulations to preserve and protect landmark buildings and sites and other places of historical interest, and the marking of places of historic interest with suitable monuments, plaques or markers.

(Ord. No. 2006-3286, § 6, 9-26-06)

Sec. 2-422. - Duties and responsibilities.

The duties and responsibilities of the commission include:

- The commission shall conduct or cause to be conducted a survey of the historic, architectural, and archaeological resources within the community. Survey and inventory documents shall be maintained at City Hall and shall be open to the public. The survey shall be updated at least every ten (10) years. The commission shall also periodically make a report and presentation to the city council with regard to subjects in accordance with its purpose stated above.
- The commission shall work with and advise the city manager, the city council and other city officials with regard to all proposed National Register nominations for properties within the boundaries of the city.
- The landmarks commission may utilize area resources, such as historical societies, landmark commissions and other similar agencies within the City of Ferguson, the County of St. Louis, the State of Missouri and federal agencies of a similar nature, in order to fulfill its purpose as set forth in this division.
- The commission shall make recommendations to the city council regarding criteria for and designation of buildings and structures which qualify as "landmarks" and criteria and designation of "historic districts".
- The commission shall review the local inventory and make recommendations to the city council for historic designation(s) based on the following criteria:
 1. Has significant inherent character, interest, or value as part of the development or heritage of the community, state, or nation; or
 2. Is the site of an event significant in history; or
 3. Is associated with a person or persons who contributed significantly to the culture and development of the community, state, or nation; or
 4. Exemplifies the cultural, political, economic, social, ethnic, or historic heritage of the community, state, or nation; or
 5. Individually, or as a collection of resources, embodies distinguishing characteristics of a type, style, period, or specimen in architecture or engineering; or
 6. Is the work of a designer whose work has influenced significantly the development of the community, state or nation; or
 7. Contains elements of design, detail, materials, or craftsmanship which represent a significant innovation; or
 8. Is part of or related to a square or other distinctive element of community planning; or

9. Represents an established and familiar visual feature of the neighborhood or community; or
10. Has yielded, or may be likely to yield, information important in pre-history or history.

In making its recommendation, the commission shall give consideration to and take into account the age, design, period of construction, aesthetic value, past use, historical significance, unusual nature, point of location or other recognized or generally accepted criteria for determination.

Each such recommendation shall be delivered to the city council in writing and state the reasons for such recommendation.

(Ord. No. 2006-3286, § 7, 9-26-06)

Sec. 2-423. - Designation of landmark or historic district.

Whenever a building, or structure has been officially designated as a landmark by the city council, or whenever an area has been officially designated as a historic district by the city council, the commission may advertise and promote such designation.

(Ord. No. 2006-3286, § 8, 9-26-06)

Sec. 2-424. - Permit for demolition, new construction, alteration, repairs, or restoration of landmark.

No permit for the demolition, material alteration, substantial modification or other change shall be issued by the city for any landmark designated by the city council, until the plans and specifications upon which the application for such permit are based, shall have first been submitted to the landmarks commission for its recommendation.

Upon submission to the commission of any such application for a permit, the commission shall have a maximum of thirty (30) days in which to study and review such application and the plans and specifications upon which such application is based, and to confer with the owner, occupant, or other person having an interest in such building or structure, for the purpose of making suggestions and recommendations with respect to any and all means or methods considered feasible and proper for the preservation of such landmark.

When considering such plans and specifications for new construction, alteration, repairs, or restoration, the commission shall use the Secretary of the Interior's Standards for Rehabilitation as guidelines in making its recommendations. In addition, the commission shall consider any other guidelines for local historic districts and local historic buildings that have been enacted by ordinance of the city council. The commission shall consider whether the landmark in question may be preserved and maintained in a state which will not deface, mar, materially alter or destroy, in whole or in part, the historical significance or aesthetic value of such landmark.

The commission's recommendation is advisory only. In the event that a permit is denied by the appropriate official of the city, such denial shall be subject to review by the board of building appeals under the provisions of the applicable building code provisions and/or subject to judicial review in accordance with the Administrative Procedures Act.

All permit applications shall be held as pending and no permit shall be issued during the thirty (30) day review period by the commission.

(Ord. No. 2006-3286, § 9, 9-26-06)

Sec. 2-425. - Landmarks fund.

Any gifts and gratuities granted to the city for the specific purpose of the study, acquisition, designation and preservation of officially designated landmarks shall be set aside in a special fund known as the "landmarks fund" and shall be distributed only upon appropriation by the city council. All such gifts and gratuities shall be used solely for purposes as established by the city council and may be disbursed or expended only upon any lawful terms or conditions established by state law and ordinances of the city.

(Ord. No. 2006-3286, § 10, 9-26-06)

Secs. 2-426—2-560. - Reserved.

ARTICLE VI. - PERSONNEL^[17]

Footnotes:

— (17) —

Charter reference— *Personnel system, § 5.2.*

Cross reference— *Ordinances pertaining to any personnel policy dealing with police officers, firefighters or other city employees saved from repeal, § 1-8(8); ordinances pertaining to the retirement, disability or other pension or benefit accruing or accrued to any police officer or firefighter under former chapter 8 of the 1973 Municipal Code saved from repeal, § 1-8(9).*

DIVISION 1. - GENERALLY

Sec. 2-561. - Federal old-age and survivors insurance.

It is hereby declared to be the policy and purpose of the city to extend to all eligible employees and officials of the city the benefits of the system of federal old-age and survivors insurance as authorized by the Social Security Act as amended and by the Revised Statutes of Missouri, as amended.

(Code 1973, § 4.08(a); Ord. No. 85-2054, § 1(4.37), 2-12-85)

State Law reference— Old-age and survivors insurance, RSMo 105.300 et seq.

Sec. 2-562. - Employment of relatives.

- (a) No relative of an officer or employees of the city shall be hired as an officer or employee of the city except under the following conditions:
- (1) If the relative being hired is to be employed in a position or job in a different department over which the relative already in the employment of the city shall have no control, direction or supervision. If at any time in the future one or the other of the relatives shall, by reason of departmental change or promotion, thereby acquire the control, direction and supervision over a relative, the lower grade employee, i.e., controlled employee, shall be transferred to another department, if possible. If not, such employee's service with the city shall be terminated;
 - (2) If the relative being hired is a seasonal employee;
 - (3) If the relative being hired is a sanitation collector.
- (b) Relative employed by the city in different departments shall not be transferred so that such relatives shall be in the same department, even though neither of the relatives shall have controlled direction or supervision over the other, except for temporary periods of time or in excess of emergency, in which case upon the completion of the temporary period or emergency the employees shall be returned to their respective departments.
- (c)

The term "relative" as used in this section shall include wife or husband, mother, father, brother, sister, son, daughter, aunt, uncle, son-in-law, daughter-in-law, first cousin, an adopted child, stepchild or ward.

- (d) No officer or employee of the City, by virtue of his office or employment, shall name or appoint to office or employment with the City any relative within the fourth degree, by consanguinity or affinity. (Code 1973, § 4.10(a)—(c); Ord. No. 85-2054, § 1(4.35), 2-12-85; Ord. No. 96-2854, § 1, 9-10-96)

Secs. 2-563—2-580. - Reserved.

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

Sec. 2-581. - Department of human resources.

There is hereby established a department of human resources, the director of which shall be the city manager, or a person appointed by the city manager. The director of human resources shall report directly to the city manager and shall have the powers and duties as set forth in section 2-584 of this Code.

(Code 1973, § 4.03; Ord. No. 85-2054, § 1(4.33), 2-12-85; Ord. No. 2009-3414, § 1, 11-17-09)

Sec. 2-582. - Personnel board—Members.

- (a) *Generally.* The personnel board shall consist of five (5) members appointed by the council, one (1) of whom shall be designated by the board as chairman. All members of the personnel board shall serve without pay. The director of the department of human resources shall be an *ex officio* member of the personnel board and shall attend all meetings of the board.
- (b) *Qualifications.* Members of the personnel board shall be residents of the city. Members of official political party committees and members of the municipal government shall be ineligible to serve as members of the board.
- (c) *Terms.* The council shall appoint members of the personnel board for terms of three (3) years with not more than two (2) members' terms expiring the same year.
- (d) *Removal.* Any member of the personnel board may be removed by the council for cause. Such member may demand that written charges be placed against him, and upon which demand, the council shall grant such member a public hearing thereon. A certified copy of the charges and a transcript of the record of the hearing shall be filed with the city clerk.

(Code 1973, § 4.04(a)—(d); Ord. No. 85-2054, § 1(4.46(a)—(d)), 2-12-85; Ord. No. 2009-3414, § 1, 11-17-09)

Sec. 2-583. - Same—Rules; powers and duties.

- (a) *Rules of procedure.* The personnel board may establish rules of procedure consistent with Charter and this Code.
- (b) *Powers and duties.* The personnel board shall:
- (1) Upon request, advise the council and the director of human resources and city manager on problems concerning personnel administration;
 - (2) Assist the council, as requested by the council, with regard to any investigations concerning the administration of personnel in municipal service which the council undertakes pursuant to Section 3.9 of the Charter, and report to the council as necessary or as requested by the council.
 - (3) Review and make recommendations regarding any administrative rules and regulations pertaining to personnel which are promulgated pursuant to Charter or ordinance;

- (4) Review and make recommendations regarding the compensation plan;
- (5) Hear appeals from disciplinary action as provided by Charter, ordinance, rule or regulation;
- (6) Perform such other duties with reference to personnel administration, not inconsistent with the Charter, as requested by the council, the city manager or the director of human resources;
- (7) Meetings of the board may be called by the mayor, the city manager or the director of human resources.

(Code 1973, § 4.04(e), (f); Ord. No. 85-2054, § 1(4.46(e), (f)), 2-12-85; Ord. No. 97-2953, § 1, 11-10-97; Ord. No. 2009-3414, § 1, 11-17-09)

Sec. 2-584. - Duties of the director of human resources.

The director of human resources shall:

- (1) Participate and assist the city manager in the recruitment and hiring process including, but not limited to, advertising and recruiting for open positions within the city, administering all pre-employment testing and screenings, and managing and processing all paperwork in coordination with the finance department;
- (2) Oversee the administration of city policies and procedures regarding personnel administration;
- (3) Process all personnel action documentation and maintain all personnel records and files;
- (4) Research, study and make recommendations regarding compensation and benefits of employees;
- (5) Oversee the administration of benefits, including pension, for employees and retirees;
- (6) Offer and provide necessary training to employees;
- (7) Coordinate with the various departments to ensure the annual evaluation of all employees;
- (8) Process workers compensation claims and other claims involving employees;
- (9) Serve as ex officio member of the personnel board;
- (10) Recommend and coordinate functions and programs to benefit the morale, health and overall well-being of the employees;
- (11) Perform such other duties and functions as instructed by the city manager.

(Code 1973, § 4.05; Ord. No. 85-2054, § 1(4.34), 2-12-85; Ord. No. 2009-3414, § 1, 11-17-09)

Secs. 2-585—2-595. - Reserved.

DIVISION 3. - PENSION PLAN AND FUND^[18]

Footnotes:

— (18) —

State Law reference— *Retirement plans, RSMo 105.660 et seq.*

Sec. 2-596. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accrued benefit shall mean the amount determined in accordance with section 2-599 for retirement at normal retirement date or thereafter, but based only on salary prior to the date of determination.

Actuarial equivalent value shall mean a benefit or benefits, or a payment or payments, which are of equal value at the date of determination to the benefits for which they are to be substituted. Equivalence of value is determined from actuarial calculations based on the following actuarial assumptions:

Interest—Six (6) percent per annum compound.

Mortality—In accordance with the UP 1984 Mortality Table.

Average monthly salary shall refer to the above salary during any sixty (60) calendar months out of the last ninety-six (96) calendar months of employment prior to termination or retirement which yield the highest average in the case of a participant paid on a monthly basis. In the case of an employee paid on an hourly basis, the expression "average monthly salary" shall be the product of that employee's regular hourly rate and the number of established regular work hours in a year divided by twelve (12). Should a participant qualify for disability benefits prior to the completion of sixty (60) calendar months of employment, the average monthly salary shall refer to his average monthly salary during the entire period of his employment.

Board of trustees shall mean the board of trustees of the pension plan provided for by the terms of section 2-610.

Contingent annuitant shall mean any person who, in accordance with the provisions of the plan, is entitled to receive any amount or benefit in case of the death of any former participant who was receiving benefits.

Credited service shall mean the number of years and completed months of continuous uninterrupted employment with the city from the participant's last date of employment to the date employment is terminated, including any unused sick leave. Credited service shall not be deemed interrupted by:

- (1) Involuntary military as a member of the armed forces of the United States for any period of time or voluntary military service as a member of the armed forces of the United States for one (1) period of enlistment, provided that the participant returns or has returned to the employ of the city within six (6) months after his discharge from such armed service;
- (2) Leaves of absence granted by the city under uniform rules consistently applied for periods of up to two (2) years;
- (3) Sickness, accident or other disability provided employment is resumed promptly upon becoming able to work.

Notwithstanding that credited service will not be interrupted by these specific occurrences, the amount of credited service granted for periods when a participant was not in the active employ of the city shall be limited to one (1) year.

Former participant shall mean any person who was previously a participant of the plan but who is no longer a participant, and who is either receiving or may be entitled to receive benefits in accordance with the provisions of the plan.

Full-time shall mean employment for twelve (12) months a year and paid on other than a fee or contract basis. This shall not include those employees who do not work, or are not scheduled to work, a minimum of two thousand eighty (2,080) hours in a calendar year. In the event that an employee qualifies as both a uniformed employee and a nonuniformed employee, because of maintaining two (2) distinct

full-time positions with the city, then benefits shall be paid only on the basis of the primary job held at the time of retirement or disability. In no event shall more than one (1) pension be payable to any employee of the city out of this pension plan.

Fund shall refer to the city pension fund provided for in section 2-605.

Nonuniformed employee shall mean all regular, full-time employees of the city who have not been classified as uniformed employees, except that the city manager and assistant to the city manager for purposes of this division shall not be included within this definition.

Normal retirement date shall refer to the first day of the month coinciding with, or next following, the date on which a participant in the plan shall have both attained his sixtieth (60) birthday and completed at least eight (8) years of credited service with the city.

Participant shall mean any uniformed or nonuniformed employee who qualifies for participation on February 29, 1965 or thereafter in accordance with section 2-598.

Plan shall refer to the plan as set out in this division, with any and all amendments or supplements thereto.

Retirement date shall mean the date upon which a participant actually retires, provided he is then entitled to an immediate or a deferred pension under the terms of the plan.

Uniformed employee shall mean all regular salaried members of the police and fire departments, including the chiefs of the respective departments who have been commissioned by the city. "Uniformed employee" shall not include clerical personnel or special, auxiliary or volunteer members of either department.

(Code 1973, § 8A.01; Ord. No. 83-2000, § 1, 6-28-83; Ord. No. 85-2098, § 1, 9-10-85; Ord. No. 86-2150, § 1, 6-24-86; Ord. No. 87-2235, § 1, 11-24-87; Ord. No. 91-2503, § 1, 9-24-91; Ord. No. 92-2549, § 1, 7-28-92; Ord. No. 96-2859, § 1, 10-8-96; Ord. No. 99-3067A, § 1, 12-14-99; Ord. No. 2002-3160, § 1, 9-10-02; Ord. No. 2006-3274, § 1, 6-27-06)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 2-597. - Pension plan.

- (a) *Established.* There is hereby established a plan for the retirement of full-time employees of the city. The pension plan shall provide benefits for its participants for retirement because of age or disability, in pursuance to the state constitution and the laws enacted pursuant thereto.
- (b) *Amendment or termination.* The right is reserved to the city to amend or terminate the plan at any time it is deemed necessary, and all parties thereto or claiming any interest thereunder shall be bound thereby; provided, however, that no person having an already existing interest in the plan shall, without his consent, be deprived of such interest nor have such interest lessened or diminished; no such amendment shall have the effect of departing from the prohibition diversion contained in section 2-607.
- (c) *Distribution of funds upon termination.* In the event of termination, the council shall adopt an equitable method of distribution of the pension fund's assets among participants, former participants and contingent annuitants, and each participant at the time of such termination shall be deemed to have

fully vested interest in the benefits he had accrued up to the date the plan is terminated.
(Code 1973, §§ 8A.02(a), 8A.12)

Cross reference— Ordinance pertaining to any retirement, disability or other pension or benefit accrued or accruing to any police officer or firefighter under former Chapter 8 of the 1973 Municipal Code saved from repeal, § 1-8(9).

Sec. 2-598. - Eligibility to participate.

- (a) *Nonuniformed employees.* Every current nonuniformed employee who is hired by the city after February 29, 1965, shall become a participant on the first day of the month coinciding with, or next following, the date of employment.
- (b) *Uniformed employees.* Every uniformed employee who is hired by the city after February 29, 1965, shall become a participant in the pension plan and fund on the later of thirty (30) days after February 20, 1965, and the first day of the month coinciding with, or next following, the date of employment.
- (c) *Reemployment.* An employee whose employment has been terminated for more than five (5) years and who is subsequently reemployed by the city shall be deemed to be a new employee as of the date of his reemployment. If the employee is reemployed within five (5) years of the date his employment terminated, all accrued credited service shall be reinstated.
- (d) *Notice.* The city shall inform the board as to the eligibility of its employees for participation, and the board shall cause each eligible employee to be advised of his having become a participant of the plan.
- (e) *Transfer of uniformed employees.* Any transfer in type of employment of a uniformed employee shall not be treated as a termination of employment and the participant's normal retirement date shall be determined by his type of employment at the time he either terminates employment or, if earlier, attains age sixty (60).

(Code 1973, § 8A.04; Ord. No. 86-2151, § 1, 6-24-86; Ord. No. 2522, § 1, 3-10-92; Ord. No. 2523, § 1, 3-10-92)

Sec. 2-599. - Benefits upon retirement.

- (a) *Generally.* Every participant who hereinafter retires on or after his normal retirement date shall be entitled to receive in regular monthly installments payable from the pension fund a monthly pension equivalent to one and three-fourths (1¾) percent of his average monthly salary multiplied by the number of years and fractions thereof of credited service. Such monthly installments shall be payable on the first day of each month, commencing with the month following his retirement and ending with the last payment due prior to his death. Every former participant who is otherwise eligible to receive benefits under this section and who has previously retired shall hereinafter be entitled to the benefits as authorized in this section.
- (b) *Regular retirement.* Each participant may retire upon his normal retirement date or may remain an employee after his normal retirement date.
- (c) *Early retirement.* Any participant who has both attained age fifty-five (55) and completed eight (8) years of credited service may elect to retire prior to his normal retirement date and shall be entitled to receive a monthly pension on a reduced basis, commencing on the first day of the month of his retirement, equivalent to one and three-fourths (1¾) percent of his average monthly salary multiplied by the number of years and fractions thereof of credited service. The computed reduction for early retirement for benefits commencing on or after July 1, 1996, shall be one-fourth (¼) percent each month that the commencement of the early retirement benefit precedes the normal retirement date.

Any former employee who was a participant and who elected to retire prior to his normal retirement date as authorized by this section shall hereinafter be entitled to the benefits as authorized in this section. However, any participant who has attained both age fifty-five (55) and whose years of credited service and age total eighty-two and one-half (82½) years may elect to retire prior to his normal retirement date and shall be entitled to receive a monthly pension commencing on the first day of the month of his retirement, equivalent to one and three-fourths (1¾) percent of his/her average monthly salary multiplied by the number of years and fractions thereof of credited service without any reduction of benefit as referenced herein.

- (d) *Optional forms of benefit payments.* A participant may, prior to his retirement date, by filing a written election with the board, elect to convert the pension otherwise payable to him from and after his retirement, into one (1) of the following actuarially-equivalent pensions.
- (1) A reduced monthly income payable for the life of the participant, with one hundred twenty (120) monthly payments guaranteed. If such former participant should die before receiving one hundred twenty (120) payments, the remainder of such payments shall be made to the former participant's contingent annuitant, if one has been designated and is still living. If there has been no such designation, or if the contingent annuitant is dead or dies before such payments are completed, the board may actuarially commute the remaining monthly installments and pay them in a lump sum to the participant's spouse, children, estate or such other person(s) as the board, in its discretion, may determine. For distributions made on or after January 1, 1993, the direct rollover option described in section 2-611 shall be available as an alternative to a lump sum.
 - (2) A reduced monthly income payable to the participant for life, and, after such participant's death, the payment of two-thirds (2/3) of this reduced monthly income to the contingent annuitant designated in writing to the board by such participant for the life of the contingent annuitant. If the participant elects this option, he may not change the contingent annuitant after his retirement date. If the contingent annuitant designated by a participant who has elected this option dies before such participant begins to receive his pension, the selection of this option by such participant shall automatically be revoked, and the participant shall receive his pension under the provision of subsection (a). If the contingent annuitant dies after the participant has begun to receive his pension, payment to the participant if then alive, shall be increased to the amount which would have been payable if no optional form of payment had been elected. Only one (1) person at a time may be designated a contingent annuitant.

In the event the participant does not elect either of these options, a notarized statement shall be filed with the board by the participant and his/her spouse relinquishing any claim to survivor benefits for the participant's spouse.

- (e) *Health insurance premiums.* Every participant who hereinafter retires or who has previously retired while on active duty with the city, or anyone who is or has been approved for disability retirement, who annually shows proof of health insurance, shall receive, in addition to other benefits provided herein, the sum of five dollars (\$5.00) per month per year of credited service, up to a maximum of one hundred fifty dollars (\$150.00) per month, payable toward the participant's health insurance premium until the participant is eligible for Medicare coverage as provided by the United States Government.

(Code 1973, § 8A.05; Ord. No. 86-2152, § 1, 6-24-86; Ord. No. 88-2298, § 1, 7-11-88; Ord. No. 92-2524, § 1, 3-10-92; Ord. No. 94-2702, § 1, 4-19-94; Ord. No. 96-2846, § 1, 6-25-96; Ord. No. 96-2847, § 1, 6-25-96; Ord. No. 96-2860, § 1, 10-8-96; Ord. No. 99-3067, § 1, 12-14-99; Ord. No. 2000-3070, § 1, 1-25-00; Ord. No. 2006-

Sec. 2-600. - Death benefits.

- (a) *Generally.* Death benefits shall be payable under the plan as a result of the death of a participant or former participant, as may become payable in accordance with either of the optional forms of benefit payment selected by a participant in accordance with section 2-599. These optional forms of benefit payment shall provide such benefits, if any, when the participant, prior to his death, was actually receiving monthly pension benefits in conformance to that option.
- (b) *Contingent annuitant.* Death benefits shall also be payable under the plan to the contingent annuitant of any participant who works for the city past the normal retirement date and who dies while employed by the city. The contingent annuitant shall receive a monthly pension payable for exactly one hundred twenty (120) months equal to the actuarial equivalent of the monthly pension the participant would have received under section 2-599(a) if he had actually retired on the date of his death. If there has been no designation, or if the contingent annuitant is dead or dies before such payments are completed, the board may actuarially commute the remaining monthly installments and pay them in a lump sum to the participant's spouse, children, estate or such other person or persons as the board, in its discretion, may determine.
- (c) *Vested participants.* In the event that a participant dies after meeting the vesting provisions as determined under section 2-602(a) of the plan but prior to his normal retirement date, his contingent annuitant shall receive a monthly pension payable for exactly one hundred twenty (120) months equal to the monthly benefit the participant would have received under section 2-599(a) if he had actually attained his sixtieth birthday and retired on the date of his death. The credited service used to calculate the monthly pension is the credited service accrued to the date of his death. If there has been no designation, or if the contingent annuitant is dead or dies before such payments are completed, the board may actuarially commute the remaining monthly installments and pay them in a lump sum to the participant's spouse, children, estate or such other person(s) as the board, in its discretion, may determine. For distribution made on or after January 1, 1993, the direct rollover option described in section 2-611 shall be available as an alternative to a lump sum.
- (d) *Other benefits proscribed.* No other death benefits shall be payable under the plan except those expressly provided for in this section.

(Code 1973, § 8A.06; Ord. No. 84-2035, § 1, 5-22-84; Ord. No. 86-2153, § 1, 6-24-86; Ord. No. 96-2861, § 1, 10-8-96)

Sec. 2-601. - Disability benefits.

- (a) *Eligibility.* A nonuniformed employee who is a participant and who has completed at least one (1) full year of credited service or a uniformed employee who is a participant, may be retired under this subsection at any time prior to his normal retirement date if it is determined by the board that he is no longer able properly and satisfactorily to perform his regular duties as an employee because of total and presumably permanent disability resulting from personal injury or sickness, physical or mental incapacity. Any decision of the board permitting disability benefits shall be based on a certificate of two (2) or more doctors, one (1) of which shall be selected by the board and one (1) selected and paid for by the city, after examination of the participant that the disability is total and presumably permanent. The board shall base their decision on rules uniformly and consistently applied to all participants in similar circumstances.

(b)

Amount. Every participant who retires for disability under the provisions of subsection (a) shall be entitled to receive in regular monthly installments payable from the pension fund a monthly pension equivalent to one and three-fourths (1¾) percent of his average monthly salary multiplied by the number of years and fractions thereof of credited service accrued to the date of disability; provided, however, that the monthly pension shall in no case be less than four hundred fifty dollars (\$450.00). Such monthly installment shall commence with the first day of the month following the disability retirement and shall end with the last payment due prior to death. Any former employee who was a participant and previously retired for disability under provisions of subsection (a) shall hereinafter be entitled to the benefits as authorized in this section.

- (c) *Optional forms of benefit payments.* Every participant who retires pursuant to this section shall be entitled to elect to convert his pension to a reduced monthly pension under either of the options provided under section 2-599(d) by filing a written election with the board prior to the commencement of his pension.
- (d) *Recovery.* Should a participant who is retired for total and presumably permanent disability be found to have recovered sufficiently to carry out again the performance of his duties, his disability shall cease, and he shall be restored to active service as a participant. Upon his subsequent retirement, his pension will be calculated pursuant to section 2-599.
- (e) *Military service.* Notwithstanding anything herein to the contrary, employees who while in the military service sustain total and permanent disability shall not be entitled to disability benefits as provided herein.

(Code 1973, § 8A.07; Ord. No. 85-2060, § 1, 3-12-85; Ord. No. 88-2298, § 1, 7-11-88; Ord. No. 98-2978, § 1, 4-21-98; Ord. No. 99-3066A, § 1, 12-14-99)

Sec. 2-602. - Severance benefits.

- (a) *After eight years' service.* In the event of the termination of a participant's employment after he has completed at least eight (8) years of credited service for any reason other than death, retirement under the plan, or total and presumably permanent disability under the plan, he shall be considered fully vested and entitled to a monthly pension, if living, commencing on his normal retirement date. The monthly pension shall be payable from the pension fund and be equivalent to one and three-fourths (1¾) percent of his average monthly salary, multiplied by the years and fractions thereof, of credited service accrued to the date of termination. Any former employee who is not receiving or entitled to receive benefits under this section shall hereinafter be entitled to the increased benefits as authorized herein. The participant may elect to retire as early as age fifty-five (55) and receive a monthly pension on a reduced basis, equivalent to the monthly pension above but reduced by one-fourth (¼) percent each month that the commencement of the early retirement benefit precedes the normal retirement date for benefits commencing on or after July 1, 1996.
- (b) *Before eight years' service.* Should a participant terminate employment for any reason other than retirement under the plan or total and permanent disability under the plan, prior to completing eight (8) years of credited service, he shall be entitled to no benefits under the plan, unless re-employed within five (5) years as provided in section 2-598(c).

(Code 1973, § 8A.08; Ord. No. 86-2157, § 1, 6-24-86; Ord. No. 88-2298, § 1, 7-11-88; Ord. No. 96-2848, § 1, 6-25-96; Ord. No. 2006-3274, § 3, 6-27-06)

Editor's note— Section 4 of Ord. No. 2006-3274 states that the provisions of said ordinance shall be in full effect from and after July 1, 2006.

Sec. 2-603. - Payment of benefits.

All benefits, either current or future, payable to participants, former participants and contingent annuitants under the plan, shall be payable wholly from the money and properties of the pension fund and, in no event, shall any participant, former participant or contingent annuitant have any claim for benefits against the city, its general revenues or other funds.

(Code 1973, § 8A.13)

Sec. 2-604. - Attachments of benefits.

The benefit payable by the pension fund whether before or after ordered paid by the board shall not be assignable or subject to counterclaim, recoupment, execution, garnishment or set off except as provided in this division and shall remain the property of the pension fund until actually paid to the person so designated. Nor shall the pension fund be subject to assessment, garnishment, execution, injunction or any other decree, order, process or proceeding in any court for the payment of any debt of any beneficiary, and the sum shall be held and distributed for the purpose of this division, and title to such funds shall not transfer until actually paid to such person, as prescribed in this division and for no other purpose whatever.

(Code 1973, § 8A.14)

Sec. 2-605. - Pension fund—Established.

There is hereby created a fund which shall be designated and known as the pension fund. The pension fund shall be under the exclusive control and management of a board of trustees, as provided in section 2-610.

(Code 1973, § 8A.02(b))

Sec. 2-606. - Same—Contents.

The pension fund shall consist of all money that may be given to the board and any other fund given by any person or persons for the use and purposes for which such fund is created. The board may take by gift, grant, devise or bequeath, any money, personal property, real estate or interest therein, or any right of property. Any such gift, grant, devise or bequest, may be absolute or in fee simple, or upon condition that only the rents, income or profits arising therefrom shall be applied to the purpose for which the pension fund is established.

(Code 1973, § 8A.09)

Sec. 2-607. - Same—Contributions.

- (a) No contribution to provide benefits under the plan shall be required of the participants. The contributions of the city to the pension fund shall be payable at such times and in such amounts as may be deemed desirable by the city, upon and with the advice of any actuary, it being the intention of the city to make such contributions as may be required to maintain the fund on a sound actuarial basis and fund the unfunded past service liability over a period not to exceed twenty (20) years. Such contributions from the city may be from general revenue or any other sources.
- (b) The council shall budget for and levy and collect annually as part of its general revenue, an amount of money which shall be required to maintain the pension fund in and under the conditions set forth in subsection (a) and to pay the amount collected to the treasurer of the pension fund on or before January 15 of each fiscal year.

- (c) The council shall not be required at any time to apply general revenue funds in excess of the equivalent of one (1) mill on each dollar of value of all taxable, tangible property assessed in the city in order to meet the funding requirements of the pension fund.
- (d) All contributions under the plan shall be made to the fund for the exclusive benefit of participants, former participants and their contingent annuitants, if any, and it shall be impossible at any time prior to the satisfaction of all fixed and contingent liabilities of the plan for any part of the fund to be returned to the city or used or diverted to purposes other than for the exclusive benefit of the participants, former participants and their contingent annuitants or other beneficiaries.

(Code 1973, § 8A.10; Ord. No. 96-2863, § 1, 10-8-96)

Sec. 2-608. - Investment of funds.

- (a) The board shall have full power to invest and reinvest the moneys of the pension fund, and to hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which such money shall have been invested, as well as the proceeds of such investments and such moneys. Any such investments and reinvestments shall be subject to all the terms, conditions, limitations and restrictions imposed by law upon casualty companies and life insurance companies in the state in making and disposing of their investments, except that the percentage limitations of RSMo 376.305(2) shall not apply, and except that the pension fund shall not increase its common stock investments to total more than seventy (70) percent of the asset value of the fund as determined by book value.
- (b) Should the board pursuant to section 2-610(f) elect to enter into a trust agreement with a recognized trust company, then the powers and duties set out in subsection (a) with respect to the investment and management of that portion of the pension fund are granted to and shall be undertaken by the trust company, subject to any restrictions of the state constitution and laws enacted pursuant thereto.

(Code 1973, § 8A.11)

Sec. 2-609. - Custodian of fund.

- (a) The director of finance shall be custodian of all money, securities and other property of the pension fund, subject to the control and direction of the board. He shall disburse all funds as prescribed by the board. He shall keep separate books and accounts, which shall always be subject to the inspection of the board, or any of its members. The director of finance shall be liable on his bond executed to the city for all his acts, concerning the pension fund. On the expiration of his term of office, he shall deliver to his successor all unexpended money, securities, books, records, and other property which may come into his possession as treasurer of the pension fund.
- (b) Pursuant to the authority granted to the board in section 2-610, the board may direct the trust company it selects pursuant to section 2-610 to disburse any funds payable under this plan, in which case, the director of finance shall no longer be required to exercise this duty.

(Code 1973, § 8A.15)

Sec. 2-610. - Board of trustees of pension fund.

- (a) *Creation; members.* There is hereby created a board to be known as the board of trustees of the pension fund. The board shall consist of the director of finance, one (1) nonuniformed employee selected by the nonuniformed employees of the city, one (1) member of the police department and one (1) member of the fire department as selected by the uniformed employees of each of the respective departments, and three (3) citizen members, who shall be appointed by the mayor with the approval of the council. Citizen members shall be appointed for three-year staggered terms so that

the term of one (1) member shall expire each year. A councilman selected by the council shall attend meetings of the board of trustees and shall have the right of discussion, but shall not be entitled to vote. Trustees may be removed for cause by the council of the City of Ferguson.

- (b) *Officers.* The board shall elect a chairman from among its citizen membership and a secretary, who may, but need not be, one (1) of its members. The director of finance shall be the official treasurer of the board. As treasurer, the director shall give such bond as the trustees shall require, the premium to be paid by the pension fund.
- (c) *Compensation.* The compensation of all persons engaged by the board and all other expenses of the board necessary for the pension fund shall be paid at such rate and in such amounts as the board shall approve. Such compensation and expense shall be paid out of the pension fund, provided that the trustees shall not receive any compensation as members of the board.
- (d) *Meetings.* The board shall have at least two (2) meetings per year, one (1) meeting during each six (6) month period of the year, to transact any and all business which may come before it. Also the board may call special meetings at any time upon five (5) days' notice of same in writing, such notice to be posted in the United States mail to the last known address of each trustee, and at any regular or special meeting, no business shall be transacted until a quorum of four (4) is present. Meetings of the board may be called by the mayor. A majority vote of the board members shall pass any motion, resolution, or any other matter which may be decided upon.
- (e) *Legal advisor.* The director of law shall be legal advisor of the board and shall be compensated therefor out of this fund, as the board may direct.
- (f) *Fund management.* The pension fund shall be under the exclusive control and management of the board in whose name it shall contract all of its business and hold all of its money, securities and other property. To the extent not forbidden by the state constitution and the laws enacted pursuant thereto, the board may enter into a trust agreement with a recognized trust company whereby the trust company agrees to invest and manage either all or part of the funds and property of the pension fund either independently or through investment in such trust company's "common" trust funds.
- (g) *Actuarial data.* The board shall keep in convenient form such data as shall be necessary for actuarial valuation of the funds of the pension fund and for checking the experience of the pension fund.
- (h) *Records and reports.* The board shall keep a record of all its proceedings, which record shall be open to public inspection. It shall meet as hereinafter provided, and transact all business before it. The board shall annually make a report to the council showing the fiscal transactions of the pension fund for the preceding fiscal year ending June 30, and a balance sheet showing the assets and liabilities of the pension fund as of June 30. The board shall have the financial transactions of the fund audited.
- (i) *Regulations.* The board shall make rules and regulations for the government of its affairs, and administration of the pension fund, and for the limitation of time within which claims may be filed. The board shall have exclusive jurisdiction of all retirement claims, benefits or refunds. The board shall hold hearings and take and preserve the evidence of all disputed matters and the evidence, record and final finding and decision of the board shall be subject only to review by writ of certiorari to the circuit court.

(Code 1973, §§ 8A.03, 8A.16, 8A.17; Ord. No. 89-2388, § 1, 11-14-89; Ord. No. 97-2954, § 1, 11-10-97)

Sec. 2-611. - Rollover provisions.

- (a) *Application.* This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the board, to have any

portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

- (b) *Eligible rollover distribution.* An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).
- (c) *Eligible retirement plan.* An eligible retirement plan is an individual retirement account described in section 408(a) of the Internal Revenue Code, an individual retirement annuity described in section 408(b) of the Internal Revenue Code, an annuity plan described in section 403(a) of the Internal Revenue Code, or a qualified trust described in section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.
- (d) *Distributee.* A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Internal Revenue Code, are distributees with regard to the interest of the spouse or former spouse.
- (e) *Direct rollover.* A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

(Ord. No. 96-2862, § 1, 10-8-96)

Sec. 2-612. - Limitations on benefits.

- (a) *Maximum benefit.* The maximum employer-provided benefit payable under the plan, and any other defined benefit plan ever maintained by the City of Ferguson, when expressed as an annual benefit as defined in section 415(b) of the Internal Revenue Code shall not exceed the limits set forth in section 415(b) of the Internal Revenue Code. In determining the limitation under this section, the dollar amount specified in section 415(b)(1)(A) of the Internal Revenue Code shall automatically be adjusted as prescribed in section 415(d) of the Internal Revenue Code, and any such automatic adjustments shall first be recognized for plan purposes in the calendar year of occurrence or in any such other manner as may be prescribed by the Secretary of the Treasury.
- (b) *Benefit limitations where participant is covered by both defined benefit and defined contribution plans.* In any case where a participant has been covered by a defined benefit plan at any time and by a defined contribution plan at any time where both were maintained by the employer, the sum of the defined benefit plan fraction and the defined contribution plan fraction (as defined in section 415(e) of the Internal Revenue Code) for such participant for any limitation year shall not exceed one (1.0), where:
 - (1) The portion of the defined contribution plan fraction numerator arising from periods prior to the first limitation year to which section 415 of the Internal Revenue Code applies to the plan shall be determined in accordance with section 1.415-7(f) of Internal Revenue regulations applicable to

such period. The numerator attributable to periods prior to December 20, 1987 shall be as determined effective December 19, 1987 adjusted as provided in section 1106(i)(4) of the Tax Reform Act of 1986.

- (2) The portion of the defined contribution plan fraction denominator arising from periods prior to the first limitation year to which section 415 of the Internal Revenue Code applies to the plan shall be determined in accordance with section 1.415-7(f) of the Internal Revenue regulations applicable to such period. Furthermore, the portion of such denominator with respect to all years ending before January 1, 1983 shall be determined in accordance with section 415(e)(6) of the Internal Revenue Code.

With respect to this section 2-612, the limitation year means the plan year.

- (c) *Implementation of benefit reductions.* If the provisions of section 2-612(a) apply to limit the retirement benefit which would otherwise be payable to a participant, his benefit under the plan shall be determined as follows:

- (1) Any reduction required by the other plan(s) shall be made by such plan(s).
- (2) Any further necessary reductions shall be made under this plan.

If the provisions of section 2-612(b) apply to limit the benefits otherwise payable and/or amounts otherwise to be allocated to a participant, any reduction necessary in the participant's benefit shall be made under the plan.

- (d) *Adjustment of benefit limitations after separation from service.* For any individual who has terminated employment for reasons other than death, the retirement benefit payable shall be redetermined annually on each January 1 following termination or retirement in accordance with section 2-612(a) except as follows:

- (1) The amount under section 415(b)(1)(A) of the Internal Revenue Code applicable in the redetermination shall be the adjusted amount as determined by the Secretary of the Treasury to apply to the limitation year in which the redetermination date occurs.
- (2) The amount under section 415(b)(1)(B) of the Internal Revenue Code applicable in the redetermination shall be the adjusted amount as determined by the Secretary of the Treasury applicable to reflect changes in cost-of-living between the year of termination and the calendar year of the date of redetermination.

- (e) *Determination of retirement benefit.* The accrued benefit payable under this plan shall first be calculated without reference to this section 2-612 and shall then be limited to the extent required by this section 2-612.

In the case of an individual who was a participant in one (1) or more defined benefit plans of the City of Ferguson as of December 20, 1987, the application of the limitations of section 2-612(a) through 2-612(e) shall not cause the benefit payable to be less than the benefit which could have been payable, then or at a later date, based on the participant's accrued benefit at December 13, 1987 based on the plan provisions then in effect.

(Ord. No. 96-2864, § 1, 10-8-96)

Secs. 2-613—2-630. - Reserved.

ARTICLE VII. - FINANCE^[19]

Footnotes:

— (19) —

Charter reference— *Financial procedures, Art. VI; officers' and employees' interest in contracts, § 11.2; competitive bidding, § 11.7; contracts, § 11.8.*

Cross reference— *Ordinance promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness or any contract or obligation assumed by the city saved from repeal, § 1-8(1); ordinance levying any taxes or making special assessments saved from repeal, § 1-8(2); ordinance appropriating funds saved from repeal, § 1-8(6); park fund, § 30-4; taxation generally, Ch. 42.*

DIVISION 1. - GENERALLY

Sec. 2-631. - Expenditures limited to budget.

All allowable claims against the city shall be approved for payment by the office, department, or agency head, by the director of finance, and by the city manager. Any city official who shall approve any claim for payment for which there is not a sufficient unencumbered balance in the fund or appropriation, or which is in any way contrary to the provisions of the Charter or law or ordinance, shall be personally liable and liable on his bond for the amount, and may be removed from office.

(Ord. No. 85-2054, § 1(4.24), 2-12-85)

Sec. 2-632. - Security of deposits.

The council shall require all funds of the city in any depository to be secured in a manner satisfactory to the council not inconsistent with law.

(Charter 1954, § 114)

Secs. 2-633—2-640. - Reserved.

DIVISION 2. - BONDS^[20]

Footnotes:

-- (20) --

State Law reference— *Financial administration and indebtedness of cities, RSMo Ch. 95; bond issues, miscellaneous provisions, RSMo Ch. 108.*

Sec. 2-641. - Incurring indebtedness.

- (a) No contract for the acquisition of any property or the construction of any improvement which is to be financed by bonds shall be executed until the issuance of such bonds shall have been duly authorized by ordinance pursuant to an election.
- (b) In any fiscal year, the council may issue and sell bonds or notes payable within one (1) year in any amount not to exceed fifty (50) percent of the revenues remaining to be collected and applied to the appropriations budgeted for that year, excluding revenues from municipally-owned utilities not allocated for general revenue purposes. Any money so borrowed shall be repaid out of these revenues when collected.
- (c) Some of the purposes hereby specifically authorized for which the bonds of the city may be issued, sold, pledged, or disposed of on the credit of the city, or solely upon the credit of income derived from property uses in connection with any public utility owned or operated by the city, or upon any two (2) or more such credits, shall be:
 - (1) The acquiring of land;

- (2) The purchase, construction, reconstruction, repairs and improvement upon or extension of the following:
- a. Water systems, including lakes and reservoirs;
 - b. Public sewers and sewage disposal plants;
 - c. Buildings and equipment for the police and fire departments;
 - d. Libraries and their equipment;
 - e. Other public buildings and equipment therefor;
 - f. Facilities and equipment for the collection and disposal of garbage and refuse;
 - g. Bridges, viaducts, subways, tunnels, railroads, bus lines, terminals for bus, air and railroad travel and their equipment;
 - h. Warehouses, public market facilities, airports, and equipment therefor;
 - i. Street lighting systems, gas or electric utility systems, heating and power plants, telephone and telegraph systems, facilities for radio and television broadcasting and reception;
 - j. Off-street parking facilities;
 - k. Any public utility or equipment therefor;
 - l. Public housing, hospitals, orphan homes, industrial schools, jails, workhouses, and other charitable, correctional or penal institutions and equipment therefor;
 - m. Golf courses, swimming pools, and other recreational facilities, and their equipment;
 - n. Parks, parkways, streets, boulevards, grounds or other public improvements;
- (3) The paying, refunding or renewing of any bonds issued by the city, whether general obligation bonds or revenue bonds, and the establishment of a local improvement fund to be used for the purpose of paying cash for local improvements, such fund to be replenished from time to time by the payment into it of the proceeds of special assessments made on account of such local improvements.
- (d) The enumeration contained in subsection (c) shall not be construed to limit any general provision of the Charter or of law authorizing the city to borrow money or issue and dispose of bonds, and such general provisions shall be construed according to the full force and effect of their language as if no specific purposes had been mentioned. The authority to issue such bonds for any purpose aforesaid is cumulative and shall not be construed to impair any authority to make any public improvements under any provision of the Charter or of any law.

(Ord. No. 85-2054, § 1(4.25), 2-12-85)

Sec. 2-642. - Election required for issuance of bonds.

Except for bonds for paying, renewing or refunding bonds issued by the city, no bonds, whether general obligation bonds or revenue bonds, authorized to be issued for any purpose provided in the state constitution, or by state law, may be issued by the city until an election is held thereon and the assent of the qualified voters voting thereon as required by the state constitution or by state law for the issuance of such general obligation bonds or revenue bonds has been received.

(Ord. No. 85-2054, § 1(4.26), 2-12-85)

Sec. 2-643. - Debt statement.

- (a) Prior to the adoption of any ordinance calling an election at which any question of incurring indebtedness other than revenue bonds shall be submitted, the director of finance shall prepare, swear to, and file for public inspection in the office of the city clerk a special debt statement which shall set forth the:
- (1) Aggregate principal amount of all outstanding general obligation bonds and notes and the aggregate principal amount of all outstanding revenue bonds and notes of the city;
 - (2) Deductions, if any, permitted by the state constitution and general laws;
 - (3) Amount of existing net indebtedness;
 - (4) Amount of net indebtedness after the issuance of the bonds authorized by such bond ordinance;
 - (5) Assessed valuation of the taxable real estate and tangible personal property within the city as shown by the last complete assessment made for state and county purposes;
 - (6) Aggregate principal amount of bonds and notes which the city may issue pursuant to law.
- (b) The debt statement provided in subsection (a), after approval by a majority of the council, shall be published with the notice of the bond election and shall be presumed to be accurate.
- (Ord. No. 85-2054, § 1(4.28), 2-12-85)

Sec. 2-644. - Conduct of election.

Notice of an election to authorize the issuance of municipal bonds shall be given, and such election shall be held, conducted, and the returns made, canvassed, and declared in the manner provided by ordinance and by the laws and Constitution of the State of Missouri.

(Ord. No. 85-2054, § 1(4.27), 2-12-85)

Chapter 3 - ADULT BUSINESS REGULATIONS^[1]

Footnotes:

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Editor's note—Ord. No. 2007-3302, § 1, adopted Feb. 27, 2007, amended the title of Ch. 3 to read as herein set out. Prior to inclusion of said ordinance, Ch. 3 was entitled, "Adult Entertainment Establishments."

Cross reference— Prohibition of sexually explicit behavior on premises where alcoholic beverages are sold, § 4-37; massage establishments, Ch. 26.

ARTICLE I. - ADULT ENTERTAINMENT ESTABLISHMENTS

Sec. 3-1. - Definitions.

For the purpose of this chapter, the following definitions are adopted:

Adult entertainment means any live presentations, exhibitions, video tapes or films of performances, exhibitions, or dance of any type, including but not limited to, talking, singing, reading, listening, posing, modeling, removal of clothing, or any service offered for amusement on a premises where such performances, exhibitions, displays, or dances is intended to seek to arouse or excite the sexual desires of the entertainer, other entertainers, or patrons, or if the entertainment involves a person who is nude or partially nude, or in such attire, costume, or clothing as to expose to view any portion of the human genitals, pubic region, vulva, pubic hair, buttocks, female breast(s) below a point immediately above the top of the areola or nipple, or the male genitals in a discernible erect state even if completely and opaquely covered.

Adult entertainment establishment means any premises to which the public, patrons, or members are invited or admitted, and wherein "adult entertainment" as herein defined is provided to a member of the public, a patron, or a member.

Employee means any and all persons, including managers and entertainers, who work in or at, or render any services directly related to the operation of, an adult entertainment establishment.

Entertainer means any person who provides adult entertainment within an adult entertainment establishment as defined herein whether or not a fee is charged or accepted for the entertainment.

Manager means any person who manages, directs, or is in charge of the affairs and/or conduct of any portion of any activity involving adult entertainment occurring at any adult entertainment establishment.

Operator means any person operating, conducting, or maintaining an adult entertainment establishment.

Person means any individual, partnership, corporation, trust, incorporated or unincorporated association, martial community, joint venture, government entity, or other entity or group of persons however organized.

Public place means any area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and automobiles whether moving or not.

Server means any person who serves food or drink at an adult entertainment establishment.

Specified anatomical areas mean (1) uncovered or exposed human genitals, pubic region or pubic hair; buttock; female breast(s) below a point immediately above the top of the areola or nipple, or any combination of the foregoing; or (2) human male genitals in a discernibly erect state, even if completely and opaquely covered.

Specified sexual activities means sexual conduct, being actual or simulated; acts of human masturbation; sexual intercourse; or physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female; or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification.

(Ord. No. 94-2699, § 1, 3-22-94)

Sec. 3-2. - License required for adult entertainment establishment.

- (a) It shall be unlawful for any person to operate or maintain an adult entertainment establishment in the city unless the owner, operator, or lessee thereof has obtained an adult entertainment establishment license from the city, or to operate such establishment after such license has been revoked or suspended by the city.
- (b) It shall be unlawful for any entertainer, employee, or manager to knowingly perform any work, service, or entertainment directly related to the operation of an unlicensed adult entertainment establishment.
- (c) It shall be prima facie evidence that any adult entertainment establishment that fails to have posted, in the manner required by this section, an adult entertainment establishment license, has not obtained such a license. In addition, it shall be prima facie evidence that any entertainer, employee, or

manager who performs any service or entertainment in an adult entertainment establishment in which an adult entertainment license is not posted, in the manner required by this section, had knowledge that such establishment was not licensed.

(Ord. No. 94-2699, § 1, 3-22-94)

Sec. 3-3. - License required for managers, servers, and entertainers.

It is unlawful for any person to work as an entertainer, server, or manager at an adult entertainment establishment without first obtaining a license to do so from the city, or to work as an entertainer, server, or manager at an adult entertainment establishment after such person's license to do so has been revoked or suspended.

(Ord. No. 94-2699, § 1, 3-22-94)

Sec. 3-4. - License, classification, and fees.

- (a) The license year for all fees required under this chapter shall be from January 1 through December 31. The application for a license shall be accompanied by payment in full of the fee stated in this section by certified or cashier's check or money order; and no application shall be considered complete until such fee is paid.
- (b) All licenses shall be issued for a specified location and shall be nonrefundable and nontransferable.
- (c) The classification of licenses and fees for each shall be as follows:
 - (1) *Adult entertainment business license fee*: Five hundred dollars (\$500.00) per year;
 - (2) *Adult entertainment manager's license fee*: One hundred dollars (\$100.00) per year;
 - (3) *Adult entertainer's license fee*: One hundred dollars (\$100.00) per year;
 - (4) *Adult entertainment server's license fee*: One hundred dollars (\$100.00) per year.

(Ord. No. 94-2699, § 1, 3-22-94)

Sec. 3-5. - License application.

- (a) *Adult entertainment establishment license*. All persons desiring to secure a license to operate an adult entertainment establishment under the provisions of this chapter shall make a notarized application with the director of finance. All applications shall be submitted in the name of the person proposing to conduct or operate the adult entertainment establishment. All applications shall be submitted on a form supplied by the director of finance and shall require the following information:
 - (1) The name, residence address, home telephone number, occupation, date and place of birth, and social security number of the applicant.
 - (2) The name of the adult entertainment establishment, a description of the adult entertainment to be performed on the licensed premises, and the name of the owner of the premises where the adult entertainment establishment will be located.
 - (3) The names, residence addresses, social security numbers, and dates of births of all partners, if the applicant is a partnership; and if the applicant is a corporation, the same information for all corporate officers and directors and stockholders who own more than ten (10) percent interest in the corporation.
 - (4) The addresses of the applicant, or of all partners, or of all corporate officers and directors for the five (5) years immediately prior to the date of application.
 - (5)

A description of the adult entertainment or similar business history of the applicant, or of all partners, or of all corporate officers and directors; whether any such person or entity, in previously operating in this or another city, county or state, has had a business license revoked or suspended, the reason therefor, and the activity or occupation subjected to such action, suspension, or revocation.

- (6) A statement of the business, occupation, or employment of the applicant, or of all partners, or of all corporate officers and directors for the three (3) years immediately preceding the date of the application.
- (7) A statement from the applicant, or from each partner, or from each corporate officer and director, that each such person has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:
 - a. A felony criminal act within five (5) years immediately preceding the application,
 - b. A misdemeanor criminal act within five (5) years immediately preceding the application, where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the Missouri Criminal Code, or involved controlled substances or illegal drugs or narcotics offenses as defined in the Missouri Controlled Substances Act, or other statutes or ordinances.

The statement shall also indicate that the applicant, each partner or each corporate officer and director has not been convicted of a municipal ordinance violation within two (2) years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution, or sale of controlled substances or illegal drugs or narcotics.

- (8) A full set of fingerprints and a photograph, to be taken by the police department, of the applicant, or of all partners if the applicant is a partnership, or of all corporate officers and directors if the applicant is a corporation.
- (9) If the applicant is a corporation, a current certificate of registration issued by the Missouri Secretary of State.
- (10) A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this chapter regulating adult entertainment establishments.

Failure to provide the information and documentation required by this subsection shall constitute an incomplete application which shall not be processed.

- (b) *Adult entertainment manager, server, or entertainer's license.* All persons desiring to secure a license under the provisions of this chapter to be an adult entertainment manager, server, or entertainer, shall make a notarized application with the director of finance. All applications shall be submitted in the name of the person proposing to be an adult entertainment manager, server, or entertainer. All applications shall be submitted on a form supplied by the director of finance, and shall require the following information:

- (1) The applicant's name, home address, home telephone number, date and place of birth, social security number, and any stage names or nicknames used in entertaining.
- (2)

The name and address of each adult entertainment establishment where the applicant intends to work as a manager, server, or entertainer, and an "intent to hire" statement from an adult entertainment establishment that is licensed, or that has applied for a license, under the provisions of this chapter, indicating the adult entertainment establishment intends to hire the applicant to manage, serve, or entertain on the premises.

- (3) A statement from the applicant that the applicant has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:
- a. A felony criminal act within five (5) years immediately preceding the application,
 - b. A misdemeanor criminal act within five (5) years immediately preceding the application, where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the Missouri Criminal Code, or involved controlled substances or illegal drugs or narcotics offenses as defined in the Missouri Controlled Substances Act, or other statutes or ordinances.

The state shall also indicate that the applicant has not been convicted of a municipal ordinance violation within two (2) years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution, or sale of controlled substances or illegal drugs or narcotics.

- (4) A full set of fingerprints and a photograph, to be taken by the police department, of the applicant.
- (5) The applicant shall present to the director of finance, who shall copy, documentation that the applicant has attained the age of eighteen (18) years at the time the application is submitted. Any of the following shall be accepted as documentation of age:
- a. A motor vehicle operator's license issued by any state, bearing the applicant's photograph and date of birth;
 - b. A state-issued identification card bearing the applicant's photograph and date of birth;
 - c. An official and valid passport issued by the United States of America;
 - d. An immigration card issued by the United States of America;
 - e. Any other form of picture identification issued by a governmental entity that is deemed reliable by the director of finance;
 - f. Birth certificate; or
 - g. Any other form of identification deemed reliable by the director of finance.

Failure to provide the information required by this subsection shall constitute an incomplete application and shall not be processed.

- (c) *Application processing.* Upon receipt of a complete application for an adult entertainment establishment, or an adult entertainment manager, server, or entertainer license, the director of finance shall immediately transmit one (1) copy of the application to the police chief and one (1) to the director of public works for investigation of the application. It shall be the duty of the police chief or his designee to investigate such application to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued the license applied for. The police chief shall report the results of the investigation to the director of finance not later than fifteen (15) working days from the date the application is received by the director of finance. It shall be the duty of the director of public works to determine whether the structure of the adult entertainment

establishment complies with the requirements, and meets the standards of the applicable health, zoning, building, fire, and property maintenance ordinances of the city. The director of public works shall report the results of the investigation to the director of finance not later than fifteen (15) working days from the date the application is received by the director of finance.

(Ord. No. 94-2699, § 1, 3-22-94)

Sec. 3-6. - Examination of application; issuance of license, disapproval.

- (a) If the application for an adult entertainment establishment or an adult entertainment establishment manager, server, or entertainer is in proper form and accompanied by the appropriate license fee, the director of finance shall examine the application and, after such examination, the director of finance shall, if the applicant is qualified, approve a license as provided for by law, provided a license shall not be approved to any person ineligible under section 3-7.
- (b) The license shall state that it is not transferable to other persons, and the calendar year for which it is issued. The license shall be kept posted in a conspicuous place in the place of business that is licensed, or where the licensee is working.
- (c) If an application for a license is disapproved, the applicant shall be immediately notified by registered or certified mail to the applicant's last known address, and the notification shall state the basis for such disapproval. Any applicant aggrieved by the disapproval of a license application may seek judicial review in a manner provided by law.

(Ord. No. 94-2699, § 1, 3-22-94)

Sec. 3-7. - License, ineligibility and disqualification.

No person is eligible nor shall a license be issued to:

- (1) An adult entertainment establishment applicant if one (1) or more of the following conditions exist:
 - a. The applicant's premises is located within one thousand (1,000) feet of any school, church, city park, licensed child care center, or within 1,000 feet of any property zoned residential or commercial. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's enterprise to the nearest point on the property line of such school, church, city park, licensed child care center, or any property zoned residential or commercial;
 - b. The applicant's premises is located within one thousand (1,000) feet of any other adult entertainment establishment for which there is a license issued. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's enterprise to the nearest point on the property line of such other adult entertainment establishment;
 - c. The applicant fails to supply all of the information requested on the application;
 - d. The applicant gives materially false, fraudulent, or untruthful information on the application;
 - e. The applicant's proposed business premises does not comply with or meet the requirements of the applicable health, zoning, building, fire, and property maintenance ordinances of the city, provided, that upon a showing that the premises meets said requirements and the applicant is otherwise qualified, the application shall be eligible for reconsideration;
 - f. The applicant has been convicted on any of the crimes set forth in section 3-5(A) during the time period set forth in said section;

- g. The applicant has had an adult entertainment license revoked or suspended in this or any other city during the past five (5) years.
- (2) An applicant for an adult entertainment manager, server, or entertainer if one (1) or more of the following conditions exist:
 - a. The employer for whom the applicant intends to work does not have, or is ineligible to receive, an adult entertainment establishment license for any of the reasons stated in subsection (a) above;
 - b. The applicant has been convicted on any of the crimes set forth in section 3-5(b) during the time period set forth in said section;
 - c. The applicant fails to provide all of the information required on the application;
 - d. The applicant gives materially false, fraudulent, or untruthful information on the application;
 - e. The applicant has had an adult entertainment manager, server, or entertainer license revoked or suspended in this or any other city during the past five (5) years.

(Ord. No. 94-2699, § 1, 3-22-94)

Sec. 3-8. - Standards of conduct.

The following standards of conduct shall be adhered to by all adult entertainment establishment licensees, their employees, and all adult entertainment establishment managers, servers, entertainers, and patrons of adult entertainment establishments, while on or about the premises of the business:

- (1) *Age restriction.* Only persons eighteen (18) years of age or older shall be permitted on the premises of any adult entertainment establishment.
- (2) *Exterior observation.* The premises of all adult entertainment establishments will be so constructed as to include a foyer, partition, or other physical barrier on all customer entrances that will insure the interior of the premises is not observable from the exterior of the building. In addition, all windows will be covered to prevent viewing of the interior of the building from the outside, and all doorways not constructed with an anteroom or foyer will be covered so as to prevent observation of the interior of the premises from the exterior of the building.
- (3) *Exterior display.* No adult entertainment establishment will be conducted in any manner that permits the observation of performers engaged in an erotic depiction or dance, or any material of persons depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined herein, from any exterior source by display, decoration, sign, show window, or other opening.
- (4) *Nudity prohibited.* No employee, server, or entertainer in an adult entertainment establishment shall appear nude, unclothed, in less than opaque attire, or in any fashion that exposes to view any specified anatomical area.
- (5) *Certain acts prohibited.*
 - a. No employee, server, or entertainer shall perform any specified sexual activities as defined herein, wear or use any device or covering exposed to view which simulates any specified anatomical area, use artificial devices or inanimate objects to perform or depict any of the specified sexual activities as defined herein, or participate in any act of prostitution.
 - b. No employee, server, entertainer, or patron of an adult entertainment establishment shall touch, fondle, or caress any specified anatomical area of another person, or permit another person to touch, fondle, or caress any specified anatomical areas of such employee, server,

entertainer, or patron, whether such specified anatomical areas are clothed or unclothed, covered or exposed.

- c. No employee, server, or entertainer of an adult entertainment establishment shall be unclothed or in such attire, costume, or clothing as to expose to view any specified anatomical area.
 - d. No adult entertainer shall solicit, demand, or receive any payment or gratuity from any patron or customer for any act prohibited by this chapter and no adult entertainer shall receive any payment or gratuity from any customer for any entertainment.
 - e. No owner, operator, manager, or other person in charge of the premises of an adult entertainment establishment shall:
 - 1. Knowingly permit alcoholic beverages to be brought upon or consumed on the premises;
 - 2. Knowingly allow or permit the sale, distribution, delivery, or consumption of any controlled substance, illegal drug, or narcotic on the premises;
 - 3. Knowingly allow or permit any person under the age of eighteen (18) years to be in or upon the premises;
 - 4. Knowingly allow or permit any act of prostitution or patronize prostitution on the premises; or
 - 5. Knowingly allow or permit a violation of this chapter or any other city ordinance provision or state law.
 - f. No customer or patron shall be permitted to dance or in any way perform with an entertainer.
- (6) *Lighting required.* The premises of all adult entertainment establishments shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one footcandle as measured at the floor level, and such illumination must be maintained at all times that any customer or patron is present in or upon the premises.
- (7) *Ventilation and sanitation requirements.* The premises of all adult entertainment establishments shall be kept in a sanitary condition. Separate dressing rooms and restrooms for men and women shall at all times be maintained and kept in a sanitary condition.
- (8) *Hours of operation.* No adult entertainment establishment may be open or in use between the hours of 1:30 a.m. and 12:00 noon.

(Ord. No. 94-2699, § 1, 3-22-94)

Sec. 3-9. - License posting or display.

- (a) Every person, corporation, partnership, or association licensed under this chapter as an adult entertainment establishment shall post such license in a conspicuous place and manner on the adult entertainment establishment premises.
- (b) Every person holding an adult entertainment server, manager, or entertainer license shall post his/her license in his/her work area on the adult entertainment establishment premises so it shall be readily available for inspection by city authorities responsible for enforcement of this chapter.

(Ord. No. 94-2699, § 1, 3-22-94)

Sec. 3-10. - Manager on premises.

- (a) An adult entertainment manager shall be on duty at any adult entertainment establishment at all times the premises is open for business. The name of the manager on duty shall be prominently posted during business hours.
- (b) It shall be the responsibility of the manager to verify that any person who provides adult entertainment or works as a server within the premises possesses a current and valid adult entertainer's license or an adult entertainment server's license and that such licenses are prominently posted.

(Ord. No. 94-2699, § 1, 3-22-94)

Sec. 3-11. - Inspector and inspections.

All adult entertainment establishments shall permit representatives of the police department, or any other city official acting in an official capacity, to inspect the premises as necessary to insure the business is complying with all applicable regulations and laws.

(Ord. No. 94-2699, § 1, 3-22-94)

Sec. 3-12. - Suspension, revocation, or nonrenewal of license.

Whenever the director of finance has information that:

- (1) The owner/operator of an adult entertainment establishment or a holder of an adult entertainment manager, server, or entertainer license has violated, or knowingly allowed or permitted the violation of any of the provisions of this chapter; or
- (2) There have been violations of provisions of this chapter that have occurred under such circumstances that the owner or operator of an adult entertainment establishment knew or should have known that such violations were committed; or
- (3) The adult entertainment establishment license or the adult entertainment manager, server, or entertainer license was obtained through false statements in the application for such license, or renewal thereof; or
- (4) The adult entertainment establishment licensee or the adult entertainment manager, server, or entertainer licensee failed to make a complete disclosure of all information in the application for such license or renewal thereof; or
- (5) The owner/operator, any partner, any corporate officer or director holding an adult entertainment establishment license has become disqualified from having a license by a conviction as provided in section 3-5(a); or
- (6) The holder of an adult entertainment manager, server, or entertainer license has become disqualified from having a license by a conviction as provided in section 3-5(b), then the director of finance shall make this information known to the governing body, which shall, upon five (5) days' written notice to the person holding the license, conduct a public hearing to determine whether the license should be suspended or revoked. Based on the evidence produced at the hearing, the governing body may take any of the following actions:
 - a. Suspend the license for up to ninety (90) days;
 - b. Revoke the license; or
 - c. Place the license holder on administrative probation for a period of up to one (1) year, on the condition that no further violations of the chapter occur during the period of probation. If a violation does occur, and after a hearing the violation is determined to have actually

occurred, the license will be revoked for the remainder of the license year.

(Ord. No. 94-2699, § 1, 3-22-94)

Sec. 3-13. - Renewal.

- (a) A license may be renewed by making application to the director of finance on application forms provided for that purpose. Licenses shall expire on December 31 of each calendar year, and renewal applications for such licenses shall be submitted by December 1 of each year.
- (b) Upon timely application and review as provided for a new license, a license issued under the provisions of this chapter shall be renewed by issuance of a new license in the manner provided in this chapter.
- (c) If the application for renewal of a license is not made during the time provided in subsection (a) of this section, the expiration of such license shall not be affected and a new application shall be required.

(Ord. No. 94-2699, § 1, 3-22-94)

Sec. 3-14. - Judicial review—Stay of enforcement of orders.

Following the entry of an order by the director of finance, suspending or revoking a license issued pursuant to this chapter, or disapproving the renewal application for a license, such licensee or applicant may seek judicial review in a manner provided by law.

(Ord. No. 94-2699, § 1, 3-22-94)

Sec. 3-15. - Penalties for violations.

It shall be unlawful for any person to violate any of the provisions of this chapter. Upon conviction thereof, such person shall be punished by a fine not exceeding one thousand dollars (\$1,000.00), or be punished by incarceration for a period not to exceed ninety (90) days, or by both such fine and incarceration. Each day's violation of, or failure, refusal, or neglect to comply with, any provision of this chapter shall constitute a separate and distinct offense.

(Ord. No. 94-2699, § 1, 3-22-94; Ord. No. 2007-3302, § 3, 2-27-07)

Sec. 3-16. - Regulations.

The director of finance shall have the power to promulgate regulations, as may be necessary and feasible for the carrying out of the duties of his/her office and which are not inconsistent with the provisions of this chapter.

(Ord. No. 94-2699, § 1, 3-22-94)

Secs. 3-17—3-19. - Reserved.

ARTICLE II. - ADULT-RELATED BUSINESSES

Sec. 3-20. - Definitions.

Adult bookstore, adult novelty store or adult retail store means an establishment meeting one of the following criteria by having:

- (1) Thirty (30) percent or more of its stock in trade, in books, photographs or magazines which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to sex or sexual activity or the principal purpose of which is to sexually stimulate or

sexually arouse the patron viewer or reader; or

- (2) Ten (10) percent or more of its stock in trade, in films for sale or viewing on or off the premises by use of motion picture devices, video players, DVD players, computers or coin operated means, which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to sex or sexual activity or the principal purpose of which is to sexually stimulate or sexually arouse the patron viewer or reader; or
- (3) Ten (10) percent or more of its stock in trade in instruments, clothing, devices, or paraphernalia that are designed or marketed for use in connection with specified sexual activities; or
- (4) A combination of such books, photographs, magazines, files, instruments, clothing, devices or paraphernalia which constitutes ten (10) percent or more of its stock in trade.

Adult-related business or establishment means any of the establishments, businesses, buildings, structures or facilities which fit within the definition of adult bookstore, adult novelty store, adult retail store, bathhouse, massage shop and/or modeling studio.

Bathhouse means an establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy, unless operated or supervised by a medical or chiropractic practitioner or professional physical therapist licensed by the state.

Massage parlor or shop means an establishment which has a fixed place of business having a source of income or compensation which is derived from the practice of any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulation of external parts of the human body with the hands or with the aid of any mechanical electric apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotion, ointment or other similar preparations commonly used in the practice of massage under such circumstances that is reasonably expected that the person to whom the treatment is provided or some person on his or her behalf will pay money or give any other consideration or gratuity; provided that this term shall not include any establishment defined in this code or operated or supervised by a medical or chiropractic practitioner or professional physical or massage therapist licensed by the State of Missouri.

Modeling studio means an establishment or business which provides for a fee or compensation the services of modeling on premises for the purpose of reproducing the human body wholly or partially in the nude by means of photography, painting, sketching, drawing or otherwise. This does not apply to public or private schools in which persons are enrolled in a class.

Specified sexual activities means sexual conduct, being actual or simulated, acts of human masturbation; sexual intercourse; or physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female; or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification.

(Ord. No. 2007-3302, § 4, 2-27-07; Ord. No. 2007-3306, § 1, 4-17-07)

Sec. 3-21. - Regulations.

In the case of any adult-related business, the following special conditions and regulations shall apply:

- (1)

No adult bookstore, adult novelty store, adult retail store, bathhouse, massage shop or modeling studio shall be permitted within two hundred fifty (250) feet of any religious institution, school, public park or any property zoned for residential use, or any city boundary. Such distance shall be measured in a straight line without regard to intervening properties from the closest exterior structural wall of the adult entertainment establishment to the closest point on any property line of the religious institution, school, or public park, or the property zoned for residential use, or to the closest point of the city boundary.

- (2) No adult-related business shall be allowed to locate or expand within one thousand (1,000) feet of any other adult-related business or any adult entertainment facility, as defined in Article I of this chapter, or of any business licensed to sell or serve alcoholic beverages whether or not such business is also an adult entertainment establishment or adult-related business. The distance between any two (2) businesses which may be considered either an adult entertainment establishment or an adult-related business shall be measured in a straight line without regard to intervening structures from the closest exterior structural wall of each business. The distance between any adult-related business and any business selling or serving alcoholic beverages shall be measured in a straight line without regard to intervening structures from the closest exterior structural wall of each business.
- (3) All access to and from the adult-related business shall be provided from a street classified as a public right-of-way.
- (4) The property on which such use is located shall have a minimum of one hundred (100) feet of frontage on a public right-of-way.
- (5) The facility on which the use is located and the parking for such facility shall have a front yard setback of thirty (30) feet, a side yard setback of six (6) feet and a rear yard setback of ten (10) feet.
- (6) Off-street parking shall be provided pursuant to the City Code.
- (7) All landscaping and screening requirements otherwise required by the city ordinance shall be observed.
- (8) The facility in which the use is located shall be designed in such a fashion that all openings, entries and windows prevent view into such facilities from any pedestrian, sidewalk, walkway, street or other public area. No adult-related business activity shall take place partially or totally outside the building, structure or facility in which the adult-related business is housed.
- (9) The facility in which such a use is located shall be limited to one (1) wall-mounted sign no greater than one (1) square foot of sign per one (1) foot of wall length, not to exceed a total of fifty (50) square feet; said sign shall not flash, blink or move by mechanical means and shall not extend above the roof line of the building. Said sign shall not exceed eight (8) feet in height from ground level. Further, no merchandise, symbol, or pictures of products or entertainment on the premises shall be displayed in window areas or on any sign or any area where such merchandise or pictures can be viewed from the exterior of the building. No flashing lights and/or lighting which leaves the impression of motion or movement shall be permitted. No temporary signs shall be allowed.
- (10) Lighting of the parking area shall conform to the requirements of city ordinance.
- (11) No adult-related business may remain open at any time between the hours of 11:00 p.m. and 9:00 a.m.
- (12)

Lighting required. The premises of all adult entertainment businesses shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access to an illumination of not less than one (1) foot candle as measured at the floor level, and such illumination must be maintained at all times that any customer or patron is present in or on the premises.

- (13) *Closed booth or room prohibited.* The premises of all adult entertainment businesses shall be physically arranged in such manner that the entire interior portions of any booths, cubicles, rooms or stalls is visible from a common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, drapes or any other obstruction whatsoever.

The regulations contained in this section shall be in addition to any and all regulations contained elsewhere in City Ordinance or the Zoning Ordinance.

(Ord. No. 2007-3302, § 4, 2-27-07)

Sec. 3-22. - Penalty.

It shall be unlawful for any person to violate any of the provisions of this article. Upon conviction thereof, such person shall be punished by a fine not exceeding one thousand dollars (\$1,000.00), or be punished by incarceration for a period not to exceed ninety (90) days, or by both such fine and incarceration. Each day's violation of, or failure, refusal or neglect to comply with, any provision of this article shall constitute a separate and distinct offense.

(Ord. No. 2007-3302, § 4, 2-27-07)

Chapter 4 - ALCOHOLIC BEVERAGES^[1]

Footnotes:

— (1) —

Cross reference— *Alcoholic beverages prohibited on premises of adult entertainment establishments, § 3-8; alcoholic beverages prohibited in amusement centers, arcades, § 5-24; alcoholic beverages prohibited on premises of massage establishments, § 26-32; offenses against public safety, § 29-106; abuse of alcohol, § 29-121 et seq.; failure to supervise minors, § 29-139 et seq.; alcoholic beverage regulations for public parks, § 30-66; police, Ch. 33; driving while intoxicated, driving with excessive blood alcohol content, § 44-106 et seq.; transportation or possession of opened containers in motor vehicles, § 44-110.*

State Law reference— *Liquor control law, RSMo Ch. 311; nonintoxicating beer, RSMo Ch. 312; municipal authority to regulate intoxicating liquor and nonintoxicating beer, RSMo 311.220(2), 312.140.*

ARTICLE I. - IN GENERAL

Sec. 4-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means an individual or a corporation, firm, partnership, joint venture, association, organization or entity of any kind, including any shareholder, owner, officer, partner, joint venturer or member of such entity or any other person holding an ownership interest in such entity requesting any city permit, license, franchise or other approval.

Closed place shall mean a place where all doors are locked and where no patrons are in the place or about the premises.

State Law reference— Similar definition, RSMo 311.290(1).

Intoxicating liquor shall mean alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt or other liquors or combinations of liquor, a part of which is spirituous, vinous or fermented, and all preparations or mixtures for beverage purposes, containing in excess of three and two-tenths (3.2) percent of alcohol by weight.

State Law reference— Similar definition, RSMo 311.020.

Light wine shall mean a beverage containing not in excess of fourteen (14) percent of alcohol by weight, made exclusively from grapes, berries and other fruits and vegetables.

State Law reference— Similar definition, RSMo 311.200(3).

Malt liquor shall mean any liquor containing alcohol in excess of three and two-tenths (3.2) percent by weight and not in excess of five (5) percent by weight, manufactured from pure hops or pure extraction of hops or pure barley malt or wholesome grain or cereals and wholesome yeast or pure water.

State Law reference— Similar definition, RSMo 311.200(2).

Nonintoxicating beer shall be construed to refer to and to mean any beer manufactured from pure hops or pure extract of hops, pure barley malt or other wholesome grains or cereals and wholesome yeast, and pure water, and free from all harmful substances, preservatives and adulterants, and having an alcoholic content of more than one-half of one percent by volume and not exceeding three and two-tenths (3.2) percent by weight.

State Law reference— Similar definition, RSMo 312.010(2).

Premises shall mean that portion of any building in which a licensee hereunder has his place of business and any additional building or portion thereof used in connection therewith, and the entire lot or parcel of land on which such buildings are situated, or which is used in connection with such buildings.

Related entity means: (i) a firm, partnership, joint venture, association, organization or entity of any kind in which the applicant holds any stock, title, or other ownership interest of at least twenty (20) percent; (ii) a firm, partnership, joint venture, association, organization or entity of any kind which holds any stock, title, or other ownership interest in the applicant of at least twenty (20) percent, or (iii) an individual, firm, partnership, joint venture, association, organization or entity of any kind, whose affairs the applicant has the legal or practical ability to direct, either directly or indirectly, whether by contractual agreement, majority ownership interest, any lessor ownership interest, familial relationship or in any other manner.

Restaurant bar shall mean any establishment having a restaurant or similar facility on the premises at least fifty (50) percent of the gross income of which is derived from the sale of prepared meals or food consumed on the premises or which has an annual gross income of at least two hundred seventy-five thousand dollars (\$275,000.00) from the sale of prepared meals or food consumed on the premises.

State Law reference— Similar definition, RSMo 311.097(1).

Sale by the drink shall mean the sale of any intoxicating liquor except malt liquor, in the original package, in any quantity less than fifty (50) milliliters.

(Code 1973, §§ 35.01, 35.03; Ord. No. 2008-3373, § 1, 10-14-08)

State Law reference— Similar definition, RSMo 311.100.

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 4-2. - Hours of sale; generally.

- (a) No person having a license under this chapter nor any employee of any such person shall sell, give away or otherwise dispose of, or suffer the same to be done upon or about his premises, any intoxicating liquor or nonintoxicating beer in any quantity between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday, except as provided in sections 4-4, 4-5, 4-55 and 4-70.
- (b) If the person has a license to sell intoxicating liquor by the drink or nonintoxicating beer for on-premises consumption, his premises shall be and remain a closed place between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday.
- (c) Nothing in this section shall be construed to prohibit the sale or delivery of any intoxicating liquor or nonintoxicating beer during any of the hours or on any of the days specified in this section or section 4-3, by a wholesaler licensed under the provisions of this chapter to a person licensed to sell the intoxicating liquor or nonintoxicating beer at retail.

(Code 1973, § 35.12; Ord. No. 93-2648, § 1, 6-29-93)

State Law reference— Similar provisions, RSMo 311.290(1), 311.480(3), 312.410.

Sec. 4-3. - Reserved.

Sec. 4-4. - Hours of sale—When certain holidays fall on Sunday.

When January 1, March 17, July 4, or December 31 fall on Sunday, and on the Sundays prior to Memorial Day and Labor Day, and on the Sunday on which the National Championship Game of the National Football League is played, commonly known as "Super Bowl Sunday," any person having a license to sell intoxicating liquor by the drink may be open for business and sell intoxicating liquor by the drink under the provisions of his license on that day from the time and until the time which would be lawful on another day of the week, notwithstanding any provisions of section 4-2 or any other provision of law to the contrary.

(Ord. No. 94-2732, § 1, 8-30-94)

State Law reference— Similar provisions, RSMo 311.298.

Sec. 4-5. - Same—Clubs, hotels and restaurants.

Where licenses authorizing the sale of intoxicating liquor by the drink or nonintoxicating beer for on-premises consumption are held by clubs or hotels, sections 4-2 to 4-4 shall apply only to the room or rooms in which intoxicating liquor or nonintoxicating beer is dispensed. Where licenses are held by restaurants whose business is conducted in one (1) room only and substantial quantities of food and merchandise other than intoxicating liquors and nonintoxicating beer are dispensed, then the licensee shall keep securely locked during the hours and on the days specified in section 4-2 to 4-4 all refrigerators, cabinets, cases, boxes and taps from which intoxicating liquor or nonintoxicating beer are dispensed.

(Code 1973, § 35.12)

State Law reference— Similar provisions, RSMo 311.290(1).

Sec. 4-6. - Sale by drink; defined; license requirement; procedure.

The sale of any intoxicating liquor except malt liquor, in the original package, in any quantity less than fifty (50) milliliters shall be deemed "sale by the drink," and may be made only by a holder of a license for the sale of intoxicating liquor by the drink for consumption on the premises and when so made, the container in every case shall be emptied and the contents thereof served as other intoxicating liquors sold by the drink are served.

(Ord. No. 88-2264, § 1, 2-23-88)

State Law reference— Similar provisions, RSMo 311.100.

Sec. 4-7. - Sales to minors, drunks and drunkards prohibited.

- (a) Any licensee under this chapter, or his employee, who shall sell, vend, give away or otherwise supply any intoxicating liquor or nonintoxicating beer in any quantity whatsoever to any person under the age of twenty-one (21) years, or to any person intoxicated or appearing to be in a state of intoxication, or to a habitual drunkard, and any person whomsoever except his or her parent or guardian who shall procure for, sell, give away or otherwise supply intoxicating liquor or nonintoxicating beer to any person under the age of twenty-one (21) years, or to any intoxicated person or any person appearing to be in a state of intoxication, or to a habitual drunkard, shall be deemed guilty of an offense.
- (b) This section shall not apply to the supplying of intoxicating liquor or nonintoxicating beer to a person under the age of twenty-one (21) years for medical purposes only, or to the administering of intoxicating liquor or nonintoxicating beer to any person by a duly licensed physician.

(Code 1973, §§ 35.13(c), 51.06)

State Law reference— Similar provisions, RSMo 311.310, 312.400.

Sec. 4-8. - Purchase or possession by minors prohibited.

Any person under the age of twenty-one (21) years who purchases or attempts to purchase, or has in his possession, any intoxicating liquor or nonintoxicating beer is guilty of an offense.

(Code 1973, § 35.13(a))

State Law reference— Similar provisions, RSMo 311.325, 312.407.

Sec. 4-9. - Misrepresentation of age by minors prohibited.

- (a) Any person of the age of seventeen (17) years and under the age of twenty-one (21) years who shall represent that he has attained the age of twenty-one (21) years for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor or nonintoxicating beer, except in cases authorized by law, shall upon conviction be deemed guilty of an offense.
- (b) Any person under the age of seventeen (17) years who shall represent that he or she has attained the age of twenty-one (21) years for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor or nonintoxicating beer, except in cases authorized by law, may be considered a delinquent child and may be dealt with in accordance with the provisions of RSMo Ch. 211.

(Code 1973, § 35.13(b))

State Law reference— Similar provisions, RSMo 311.320, 312.405.

Sec. 4-10. - Sale by minors prohibited; exception.

- (a) Except as provided in subsections (b) and (e), no person under the age of twenty-one (21) years shall sell or assist in the sale or dispensing of intoxicating liquor or nonintoxicating beer.
- (b) In any place of business licensed in accordance with this chapter, where at least fifty (50) percent of the gross sales made consists of goods, merchandise or commodities other than intoxicating liquor or nonintoxicating beer in the original package, persons at least eighteen (18) years of age may stock, arrange displays, accept payment for and sack for carryout intoxicating liquor or nonintoxicating beer. Delivery of intoxicating liquor or nonintoxicating beer away from the licensed business premises cannot be performed by anyone under the age of twenty-one (21) years.
- (c) In any distillery, warehouse, wholesale distributorship or similar place of business which stores or distributes intoxicating liquor or nonintoxicating beer, but which does not sell intoxicating liquor or nonintoxicating beer at retail, persons at least eighteen (18) years of age may be employed and their duties may include the handling of intoxicating liquor or nonintoxicating beer for all purposes except consumption, sale at retail or dispensing for consumption or sale at retail.
- (d) Persons eighteen (18) years of age or older may, when acting in the capacity of a waiter or waitress, accept payment for or serve intoxicating liquor or nonintoxicating beer in places of business which sell food for consumption on the premises if at least fifty (50) percent of all sales in those places consists of food.
- (e) Nothing in this section shall authorize persons under twenty-one (21) years of age to mix or serve across the bar intoxicating beverages or nonintoxicating beer.

State Law reference— Similar provisions, RSMo 311.300.

Sec. 4-11. - Additional licensing requirements for those businesses that sell intoxicating liquor or nonintoxicating beer in connection with the sale of gasoline for motor vehicles (gasoline service stations).

Licenses for the sale of intoxicating liquor or nonintoxicating beer in the original package shall not be issued to any applicant who conducts a business that dispenses gasoline for motor vehicles (gasoline service stations) unless said applicant meets all the requirements of this chapter and, in addition thereto, conforms to each of the following minimum requirements:

- (1) The business shall contain no less than four hundred fifty (450) square feet of sales display area; and
- (2) Selling and display space for alcoholic beverages shall be limited to a maximum of twenty (20) percent of the total selling space; and
- (3) The business shall keep and maintain at all times a stock of no less than seven hundred fifty (750) separate and distinguishable products for sale, exclusive of alcoholic beverages, tobacco products, automotive parts and supplies, and gasoline; and
- (4) The business must have and keep a stock of goods having a value, according to invoices, of at least seven thousand five hundred dollars (\$7,500.00) exclusive of alcoholic beverages, tobacco products, automotive parts and supplies, and gasoline; and
- (5) Advertising of alcoholic beverages shall not be permitted on gasoline islands.

(Ord. No. 95-2798, § 1, 10-24-95)

Sec. 4-12. - Drive-through windows.

No licensee under this chapter, or its employee, shall sell, vend, give away, or otherwise supply any intoxicating liquor or nonintoxicating beer in any quantity whatsoever at or through a drive-through window.

(Ord. No. 96-2817, § 1(3-11), 2-13-96)

Secs. 4-13—4-25. - Reserved.

ARTICLE II. - LICENSES^[2]

Footnotes:

— (2) —

Cross reference— *Occupational license taxes, § 42-21 et seq.*

State Law reference— *Municipal authority to license intoxicating liquor and nonintoxicating beer, RSMo 311.220(2), 312.140.*

DIVISION 1. - GENERALLY

Sec. 4-26. - Required.

No person shall sell or expose for sale in the city any intoxicating liquor or any nonintoxicating beer in any quantity without first obtaining a license therefor from the city.

(Code 1973, § 35.02)

State Law reference— *State intoxicating liquor license, RSMo 311.050 et seq.; state nonintoxicating beer permit, RSMo 312.030 et seq.*

Sec. 4-27. - Qualifications generally.

No person shall, under any condition, be granted a license under this article, unless such person:

- (1) Is of good moral character;
- (2) Is a qualified legal voter in the county of residence at the time of application or any renewal of a license;
- (3) Is an assessed tax-paying citizen of a county, city, town or village or residence at the time of application or any renewal of a license;
- (4) Owes no taxes, license fees, special assessment or service charges, fines or penalties at the time of application or any renewal of a license;
- (5) Individually or any officer, director or shareholder of a corporate applicant, has not been convicted of a felony or of any violation of any laws of the United States or any state involving the distribution, sale or possession of any controlled substance or dangerous drugs;
- (6) Has no prior revocation of a liquor license;
- (7) Has not been convicted, since the ratification of the twenty-first amendment to the Constitution of the United States, of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor or nonintoxicating beer;
- (8) Has not violated provisions of any law applicable to the manufacture, sale or distribution of intoxicating liquor;
- (9)

Will not employ in his business and has not employed in his business, at any other location, a person whose license has been revoked or who has been convicted of violating the provision of any liquor laws;

- (10) Is in fact the true applicant and is making the application in his own name and has a financial interest in the business;
- (11) Shall present with the application a bona fide sale contract or option duly executed, which may be subject to applicant obtaining a license, or a bona fide lease duly executed by the lessor or an option for a lease duly executed, subject to applicant obtaining a liquor license, covering the property for which a license is requested;
- (12) Has reached his twenty-first birthday.
- (13) Shall present with the application a certificate of compliance with the Commercial Exterior Appearance Code issued by the department of public works for the premises to be licensed.

(Code 1973, § 35.04(a); Ord. No. 88-2265, § 1, 2-23-88; Ord. No. 88-2266, § 1, 2-23-88; Ord. No. 98-2995, § 1, 8-25-98)

State Law reference— Similar provisions for state license, permit, RSMo 311.060, 312.040.

Sec. 4-28. - Compliance with other permit requirements/nuisance.

No license shall be issued pursuant to this chapter unless the use and property for which the license is proposed meet all requirements of the Zoning Code, building codes and other ordinances.

In those zoning districts where an applicant's business requires a special use permit, the applicant must first obtain the special use permit prior to receiving a license issued under this chapter.

No business, establishment or property for which a license has been issued under this chapter shall be conducted, operated or maintained in such a manner as to cause any nuisance whether private or public or any such a manner as to be detrimental to the public's health, safety and welfare.

(Ord. No. 2008-3373, § 2, 10-14-08)

Editor's note— Ord. No. 2008-3373, § 2, adopted Oct. 14, 2008, repealed § 4-28 and enacted a new section as set out herein. The former § 4-28 pertained to bond required and derived from § 35.14 of the 1973 Code.

Sec. 4-29. - Classes and fees.

(a) *Generally.* The following classes of licenses shall be issued upon compliance with the provisions of this chapter, and payment of the license fee indicated:

- (1) For the sale by the drink of all intoxicating liquors of all kinds, including the sale of intoxicating liquor in the original package, four hundred fifty dollars (\$450.00) per year;
- (2) For the sale of intoxicating liquor in the original package only, one hundred fifty dollars (\$150.00) per year;
- (3) For the sale, by the drink of malt liquor and light wines and to sell nonintoxicating beer by the drink, and including the sale of both kinds of beer in the original package, fifty-two dollars and fifty cents (\$52.50) per year;
- (4) For sale in the original package of malt liquor including the right to sell in the original package nonintoxicating beer, twenty-two dollars and fifty cents (\$22.50) per year;

- (5) For sale by the drink of nonintoxicating beer, including the right to sell in the original package nonintoxicating beer, thirty-seven dollars and fifty cents (\$37.50) per year;
- (6) For sale in the original package of nonintoxicating beer twenty-two dollars and fifty cents (\$22.50) per year;
- (7) For the sale on Sunday by restaurant bar of all intoxicating liquor of all kinds by the drink or in the original package for consumption on the premises three hundred dollars (\$300.00) per year, in addition to other fees required for sale by the drink or sale in the original package.
- (8) For the sale of intoxicating liquor in the original package at retail between the hours of 11:00 a.m. and midnight on Sundays, three hundred dollars (\$300.00).
- (b) *Disposition of fees.* All license fees collected by the director of finance shall be accounted for and paid into the city treasury.
- (c) *Prorating fees.* If the license is for less than one year, the fee shall be one-twelfth of the annual fee for each month, or fraction thereof, remaining in the licensed year.
- (d) *Service organizations.* Notwithstanding anything contained in this section, no license fee shall be due the city for the sale or exposure for sale in the city of any intoxicating liquor or non-intoxicating beer by any civic, service, fraternal, veteran, or charitable club or organization. Said clubs and organizations shall still be required to apply for and obtain the required federal, state, county, and city licenses for the sale or exposure for sale of intoxicating liquor or non-intoxicating beer prior to sale or exposure of same.

(Code 1973, § 35.03; Ord. No. 93-2647, § 1, 6-29-93; Ord. No. 95-2773, § 1, 5-9-95; Ord. No. 95-2778, § 1, 6-13-95)

State Law reference— Fees for state licenses, permits, RSMo 31.200, 312.100.

Sec. 4-30. - Licenses for premises near schools or churches.

- (a) Premises located within a radius of three hundred (300) feet of a school or church shall not be licensed for the sale of intoxicating liquors or nonintoxicating beer unless the council determines in writing and after a hearing that the premises are not detrimental to the educational and spiritual activities of such school or church; but this provision shall not apply to the transfer of a license from premises located within such distance to other premises located therein, if it is transferred to a location not less remote from the nearest school or church than its former location.
- (b) Any applicant who has been denied a license under this section shall have the right to an appeal.

(Code 1973, § 35.10; Ord. No. 83-2005, § 1, 9-6-83)

State Law reference— Sale of liquor prohibited near schools and churches, RSMo 311.080.

Sec. 4-31. - Effective period.

All new or renewal licenses issued during a fiscal year of July 1 to June 30, shall expire on June 30 of each year, and no liquor may be sold by any licensee unless and until the license shall have been authorized by the council for issuance and the fee therefor has been paid by the licensee.

(Code 1973, § 35.07)

State Law reference— Term of state licenses, permits, RSMo 311.240(1), 312.110.

Sec. 4-32. - Separate place of business.

A license is required for each place of business in which liquor is sold or dispensed, and shall cover only the sale of liquor at such place of business. For the sale of food or other merchandise on such premises, a merchant's license shall be required in addition to a license issued under this section.

(Code 1973, § 35.10)

State Law reference— Similar provisions for state license, permit, RSMo 311.240(1), 312.110.

Sec. 4-33. - Posting.

All licenses issued under this article shall be kept conspicuously posted in a place where the same can be viewed by the patrons, and at the address for which such license was issued, and during the entire period for which such license is issued.

(Code 1973, § 35.08)

Sec. 4-34. - Transfer and assignment.

- (a) No license issued under this article shall be transferred or assigned by the licensee to any other person except as set out hereafter. If a licensee desires to sell his business which he has continuously operated since the issuance of the license to the licensee or the last renewal thereof, and if the selling licensee has operated an orderly place of business and has not been the subject of any nuisances, and the seller's license is not under order of suspension or order of revocation and is otherwise in good standing, and both seller and purchaser have paid all taxes, licenses, fees, fines and penalties due to the city, the council may entertain an application for a license upon the application by the seller and the purchaser; provided that the applicant meets all of the other qualifications for the issuance of a license as provided under sections 4-27 and 4-51 which apply, provided that the license of the selling licensee is returned to the city clerk for cancellation, and provided that the special use permit, if any, is appropriately transferred to the purchaser.
- (b) In the event of the death of the licensee, the widow or widower or the next of kin of the deceased licensee who shall meet the qualification requirements of sections 4-27 and 4-51 may make application and the council may transfer such license to permit the continued operation of the business of the decedent for the remainder of the period for which a license fee has been paid by the deceased licensee, if the council shall find the applicant qualified.
- (c) Whenever one or more members of a partnership withdraws from the partnership, the council may, upon written request, permit the remaining partner, originally licensed, to continue to operate for the remainder of the period for which a license fee has been paid without obtaining a new license.
- (d) Upon an application being filed with the city clerk containing the information required by this chapter, and provided that said applicant is otherwise qualified to have a license issued to him, any person qualified to have a license transferred to him pursuant to the provisions of section 4-34 may continue the sale of intoxicating liquor or any nonintoxicating beer as authorized by the existing license pending approval by the council of the City of Ferguson of the transfer of the license to the applicant.

(Code 1973, § 35.05(e); Ord. No. 88-2267, § 1, 2-23-88; Ord. No. 2008-3373, § 3, 10-14-08)

State Law reference— Similar provisions for license, permit, RSMo 311.250, 312.130.

Sec. 4-35. - Renewal.

The council may renew the license granted under this article from year to year thereafter if such business has been continuously engaged in since the granting of the preceding license for the location, provided that the licensee has maintained an orderly place of business, has abided by the laws of the city as they apply to the place of business of the licensee, and that the licensee continues to maintain all of the qualifications of a licensee required for the issuance of a license. No renewal license shall be issued to any licensee who shall owe any taxes, licenses, fees, fines or penalties to the city, and same shall be withheld until all such tax, licenses, fees, fines or penalties are paid in full in cash, cashier's or certified check.

(Code 1973, § 35.05(d))

State Law reference— Renewal of state licenses, permits, RSMo 311.240(4), 312.110.

Sec. 4-36. - Revocation of licenses.

- (a) Revocation of any license shall be in addition to any other penalty or penalties prescribed in this chapter or available to the city by law. Any license issued by the city under this chapter may be suspended or revoked for good cause, including but not limited to, any of the following reasons:
 - (1) Any failure to comply or any violation of any provision of this chapter or the regulations promulgated under the authority of this chapter by the licensee;
 - (2) Violation of the terms and conditions upon which the license was issued;
 - (3) Violation of any ordinance of the city regulating the licensee;
 - (4) Violation of any other federal, state or local law or regulation pertaining to the licensee or the activities associated with the sale of alcoholic beverages;
 - (5) Failure of the licensee to pay any tax, fee, fine or other governmental charge required by law;
 - (6) Illegal or improper issuance of the license;
 - (7) Any misrepresentation or false statement in the application for such license;
 - (8) Causing, maintaining or assisting in the cause or maintenance of a nuisance, whether public or private; or
 - (9) Failure to obtain a similar license from the state supervisor of liquor control or suspension, revocation or other discipline of licensee's state or county liquor license.
- (b) In any case in which there is reason to believe a license issued pursuant to this chapter may be subject to revocation, the following procedure shall govern:
 - (1) The city manager or his/her designee shall set a hearing to consider the question of revocation.
 - (2) At least ten (10) days prior to such hearing, written notice shall be mailed to the licensee at his/her or its known address as shown in the records of the city clerk advising the licensee of the time and place of the hearing and of the reason for considering the revocation of the license.
 - (3) During the pendency of this hearing the licensee shall be permitted to continue the operation of the business, provided however, that the pendency of such hearing shall not preclude prosecution for violation of the ordinances of the city occurring during such period.
 - (4) At the hearing, the hearing officer, who shall be the city manager or his/her designee, shall hear all relevant evidence justifying the revocation of the license and all relevant evidence justifying the retention of the license.
 - (5) The city manager or his/her designee shall notify the licensee of the results of the hearing in writing.
 - (6)

In the event that a licensee whose license has been revoked pursuant to this section, or a related entity of a licensee whose license has been revoked pursuant to this section, shall thereafter apply for a substantially similar license, the licensing official may take into account the act(s) and circumstances which lead to the revocation in considering the new application.

- (7) Any person aggrieved by the determination of the hearing aforesaid may seek review of such decision by the city council. A written request for council review must be submitted by the aggrieved party within ten (10) days of the date of the determination for which review is sought. The written request for council review shall, at minimum, set forth all reasons known to the applicant as to wherein and why the administrative determination is in error and the evidence which supports such assertions.
- (8) The filing of a request for council review shall not stay the outcome of the administrative determination unless the council shall suspend the effect of the determination upon request of the aggrieved party.
- (9) The city council may, at its option, review the determination on the basis of the city's files and the record of the prior proceedings or may hold an additional hearing thereon. The council shall reduce the results of its review to writing and give notice thereof to all parties.
- (10) Any person aggrieved by the decision of the city council may seek judicial review by filing a petition for same with the Circuit Court of St. Louis County within fifteen (15) days of the date of the council's decision.

(Code 1973, § 35.11; Ord. No. 2008-3373, § 4, 10-14-08)

State Law reference— State license, permit revocation, RSMo 311.610 et seq., 312.237.

Sec. 4-37. - Prohibited conduct on premises where intoxicating liquor, light wine, malt liquor or nonintoxicating beer is sold.

- (a) It shall be unlawful for any person maintaining, owning or operating a commercial establishment located within the City of Ferguson, at which intoxicating liquor, light wine, malt liquor or nonintoxicating beer, as defined by this chapter, are offered for sale for consumption on the premises:
 - (1) To allow or permit any female person, while on the premises of said commercial establishment, to expose to the public view that area of the human breast at or below the areola thereof.
 - (2) To allow or permit any female person, while on the premises of said commercial establishment to employ any device or covering which is intended to give the appearance of or simulate such portions of the human female breasts as described in subsection (a)(1).
 - (3) To allow or permit any person, while on the premises of said commercial establishment to expose to public view his/her genitals, pubic area, buttocks, anus or anal cleft or cleavage.
 - (4) To allow or permit any person, while on the premises of said commercial establishment, to employ any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, buttocks, anus, anal cleft or cleavage.
 - (5) To allow or permit any person, while on the premises of said commercial establishment, to engage in the actual of simulated touching, caressing or fondling of the breasts, buttocks, anus, genitals or pubic area.
- (b) It shall be unlawful for any female person, while on the premises of a commercial establishment located within the city at which intoxicating liquor, light wine, malt liquor, or nonintoxicating beer, as defined by this chapter, are offered for sale for consumption on the premises, to expose to public

view that area of the human female breast at or below the areola thereof, or to employ any device or covering which is intended to give the appearance or simulate such areas of the female breast as described herein.

- (c) It shall be unlawful for any person, while on the premises of a commercial establishment located within the city at which intoxicating liquor, light wine, malt liquor or nonintoxicating beer, as defined by this chapter, are offered for sale for consumption on the premises, to expose to public view his/her genitals, pubic area, buttocks, anus or anal cleft or cleavage, or to employ any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, buttocks, anus or anal cleft or cleavage.
- (d) If the owner, operator, licensee, lessor, lessee, manager, employee or any other person participating in the operation of commercial establishments located within the city at which intoxicating liquor, light wine, malt liquor or nonintoxicating beer, as defined by this chapter, are offered for sale for consumption on the premises is found to have violated any of the provisions of this section, then the city council, after a hearing thereon, may revoke the liquor license for said establishment after giving notice thereof to the holder of said license and affording the holder an opportunity to be heard in accordance with the provisions of section 4-36 of this Code.

(Ord. No. 86-2184, § 1, 1-13-87)

Sec. 4-38. - Temporary licenses.

- (a) Notwithstanding the other provisions of this chapter, a permit for the sale of intoxicating liquor, light wine, malt liquor and/or nonintoxicating beer, as defined in this chapter, for consumption on the premises where sold may be issued to any church, school, civic, service, fraternal, veteran, political, or charitable club or organization for the sale of such beverages at a picnic, fair, bazaar, or similar gathering. Said permit shall be issued only for the day or days named therein and shall not authorize the sale of these beverages for more than seven (7) days by any such club or organization.
- (b) If the event will be held on a Sunday, the permit shall authorize the sale of intoxicating liquor, light wine, malt liquor, and/or nonintoxicating beer on that day beginning at 11:00 a.m.
- (c) No permit shall be issued under the provisions of this section to any club or organization that has previously been found to have violated any provisions of this chapter or the Liquor Control Law Regulations of the State of Missouri. No license shall be issued under this section until the applicant therefor has paid to the State of Missouri all fees, including but not limited to those authorized for temporary licenses by Sections 311.215 and 311.482 of the Missouri Revised Statutes.

(Ord. No. 88-2268, § 1, 3-8-88; Ord. No. 2000-3096, § 1, 10-10-2000)

Secs. 4-39—4-50. - Reserved.

DIVISION 2. - LICENSE FOR THE SALE OF INTOXICATING LIQUOR IN THE ORIGINAL PACKAGE FOR OFF-PREMISES CONSUMPTION

Sec. 4-51. - Qualifications.

In addition to the qualifications required in section 4-27, no person shall be granted a license for the sale of intoxicating liquor in the original package for off-premises consumption unless he is engaged in the operation of one (1) or more of the following business at the time of the application and no other:

- (1) Drug store;
- (2) Cigar and tobacco store;

- (3) Grocery store;
- (4) Confectionery or delicatessen;
- (5) General merchandise store;

All of which must have, and be kept in such stores, a stock of goods for sale, exclusive of liquor and fixtures, having a value, according to recent purchase invoice of at least one thousand dollars (\$1,000.00).

(Code 1973, § 35.04(b))

State Law reference— Similar provisions for state license, RSMo 311.200(1).

Sec. 4-52. - Application.

No license shall be issued to an applicant to sell intoxicating liquor in the original package only, unless the applicant shall file with the council an application for a license setting forth the information required under sections 4-27, 4-51 and 4-66. The application and accompanying affidavits shall be signed by the applicant or representatives of the applicant and the manager responsible for the conduct of business at the location which is the subject of the application.

(Code 1973, § 35.06(a) ; Ord. No. 2008-3373, § 5, 10-14-08)

Sec. 4-53. - Issuance.

If applicant for a license under this division provides all of the documentation along with the application and such other information as the council shall request, and if the council shall find after due investigation that the applicant qualifies in all respects for the issuance of the license, the council may authorize the issuance of the license requested by the applicant permitting the applicant to conduct such business for a period expiring June 30 next after the date of the issuance of such license. However, the issuance of a license is a privilege and is discretionary with the council and shall not issue as a matter of right.

(Code 1973, § 35.06(b))

Sec. 4-54. - Fee.

No license shall be issued under this division until the applicant therefor has paid to the director of finance the fee therefor prescribed in section 4-29(2).

Sec. 4-55. - Sale on Sundays.

Notwithstanding any other provisions of this chapter to the contrary, any person possessing the qualifications and meeting the requirements of this chapter, who is licensed to sell intoxicating liquor in the original package for off-premises consumption as authorized by this chapter, may apply to the council for a special license to sell intoxicating liquor in the original package for off-premises consumption between the hours of 9:00 a.m. and midnight on Sundays.

(Ord. No. 2003-3194, § 1, 9-23-03)

Editor's note— Ord. No. 2003-3194, § 1, adopted Sept. 23, 2003, repealed the former § 4-55, and enacted a new § 4-55 as set out herein. The former § 4-55 pertained to similar subject matter and derived from Ord. No. 94-2732, § 2, adopted Aug. 30, 1994.

Secs. 4-56—4-65. - Reserved.

DIVISION 3. - LICENSE FOR THE SALE OF INTOXICATING LIQUOR BY THE DRINK FOR CONSUMPTION ON

THE PREMISES

Sec. 4-66. - Application for regular license.

The applicant for a license to sell intoxicating liquor by the drink for consumption on the premises shall file with the council a verified application for a license, setting forth:

- (1) The full name, age, residence, place of birth of the applicant, and if a naturalized citizen, the time and place of naturalization, the length of time he has resided at the residence stated, and the addresses at which he resided for the last five (5) years, if different from present address and statements as to his qualifications under section 4-27. If the applicant is a corporation, the petition shall set forth all of the above information with respect to the managing officer or officers, identifying such officer or officers. The application shall further state the full name of the corporation, its date of incorporation, its registered agent and registered address, the names and addresses and percent of interest of all shareholders of the corporation, and whether such corporation operates any other business, controls or is controlled by any other corporation or business, and if so, the name of such controlled or controlling corporation or business, its registered agent and registered address and location of all businesses operated by it and the name and address of any with a liquor license, whether within or without the city. If such controlling corporation or any controlled corporation is doing business under a fictitious name, the applicant shall provide the fictitious name used and the address where said business is located. In addition thereto the council may request such additional information of an applicant as it may deem necessary for it to make a determination with respect to the issuance of a license to an applicant;
- (2) Whether or not any distiller, wholesaler, winemaker, brewer or any employee, officer or agent of any such person has any financial interest or proposes to have any financial interest in the retail business for the sale of intoxicating liquor for which such applicant applied for license, whether or not any such persons, either directly or indirectly, have loaned, given or furnished, or will give, loan or furnish any equipment, money, credit or property of any kind to such applicant, except ordinary commercial credit for liquor sold to such applicant and the names of all persons, directly or indirectly interested financially in the proposed business of the applicant;
- (3) The exact location of the place or premises where the applicant proposes to engage in such retail liquor business, including the street address of the premises;
- (4) The kind of business which the applicant proposes to conduct in such premises, including food service, if any, entertainment and the type thereof, if any, the address of the closest residence to the building for which the liquor license is sought and the legal description, if not contained in other documents presented, of the premises for which a liquor license is sought.

(Code 1973, § 35.05(a))

Sec. 4-67. - License for the sale of liquor by the drink for consumption on the premises.

- (a) Any person who otherwise possesses the qualifications required by this chapter and who now and hereafter meets the requirements of all other provisions of this chapter, may apply for and be issued a license under this provision to sell intoxicating liquor by the drink for consumption on the premises of any restaurant or bar; provided, however, that the license described in this section shall allow for sales only Monday through Saturday.
- (b)

Any restaurant bar, without an on-site brewery, that serves twenty (20) or more different types of draft beer may sell thirty-two (32) fluid ounces or more of such beer to customers for consumption off the premises of such restaurant. As used in this section, the term "restaurant bar" means any establishment having a restaurant or similar facility on the premises at least fifty (50) percent of the gross income of which is derived from the sale of meals or food both prepared on the premises and consumed on such premises.

(Ord. No. 87-2189, § 1, 2-24-87; Ord. No. 2013-3516, § 1, 2-12-13)

Sec. 4-68. - Reserved.

Editor's note— Ord. No. 2008-3373, § 6, adopted Oct. 14, 2008, repealed § 4-68 which pertained to consent of neighboring property owners required for regular license and derived from § 35.05(b) of the 1973 Code and Ord. No. 91-2456, § 1, adopted Jan. 22, 1991.

Sec. 4-69. - Issuance of regular license.

If an applicant for a license under this division provides all of the documentation along with his application, and such other information as the council shall request, and if the council shall find, after due investigation of all matters, that the applicant qualified in all respects for the issuance of such license, the council may authorize the issuance of such license to the applicant permitting the applicant to conduct such business for a period expiring on June 30 next, after the date of the issuance of such license. However, the issuance of such a license is a privilege and is discretionary with the council and shall not issue as a matter of right.

Sec. 4-70. - Sales of liquor by the drink on Sundays.

Notwithstanding any of the provisions of this chapter to the contrary, any person(s) who possesses the qualifications regulated by this chapter, and who now or hereafter meets the requirements of and complies with the provisions of this chapter, may apply for, and the council may issue, a license to sell intoxicating liquor, as defined in this chapter, between the hours of 9:00 a.m. on Sunday and midnight on Sunday, by the drink at retail for the consumption on the premises of any restaurant or bar as described in the application.

(Ord. No. 2003-3194, § 1, 9-23-03; Ord. No. 2013-3516, § 2, 2-12-13)

Editor's note— Ord. No. 2003-3194, § 1, adopted Sept. 23, 2003, repealed the former § 4-70, and enacted a new § 4-70 as set out herein. The former § 4-70 pertained to similar subject matter and derived from Code 1973, § 35.03(7); Ord. No. 88-2269, § 1, adopted March 8, 1988; Ord. No. 92-2541, § 1, adopted June 9, 1992; Ord. No. 93-2645, § 1, adopted June 29, 1993.

Sec. 4-71. - Fee for regular license.

No license shall be issued under this division until the applicant therefor has paid to the director of finance the fee therefor prescribed in section 4-27(1).

Sec. 4-72. - License for banquet halls.

(a) Notwithstanding the provisions of section 4-67 and section 4-68 of this chapter, any applicant who otherwise possesses the qualifications required by this chapter may be issued a license to sell intoxicating liquor by the drink for consumption on the premises of a banquet hall. A "banquet hall," as described herein, is defined as an establishment that has a minimum seating capacity of two hundred fifty (250) people and wherein food and drink are prepared and served for prearranged events and functions and is not open on a daily basis to the general public.

(b) Notwithstanding section 4-2 of this chapter, any person having a banquet hall license who is a not-for-profit organization and who is in full compliance with all federal, state, and county laws, and the ordinance of the city of Ferguson, may sell intoxicating liquor by the drink, for consumption on the premises of the banquet hall on Sundays from 11:00 a.m. to midnight.

(Ord. No. 95-2768, § 1, 3-14-95)

Secs. 4-73—4-85. - Reserved.

DIVISION 4. - LICENSE FOR THE SALE OF NONINTOXICATING BEER IN THE ORIGINAL PACKAGE OR BY THE DRINK

Sec. 4-86. - Application.

No license shall be issued to an applicant to sell nonintoxicating beer, either in the original package or by the drink, unless the applicant shall file with the council an application for a license setting forth the information required under sections 4-27 and 4-66. The application need not be signed by any person other than the applicant, and the consent of property owners adjacent shall not be required.

(Code 1973, § 35.06(a))

Sec. 4-87. - Issuance.

If an applicant for a license under this division provides all of the documentation along with the application and such other information as the council shall request, and if the council shall find after due investigation that the applicant qualifies in all respects for the issuance of the license, the council may authorize the issuance of the license requested by the applicant permitting the applicant to conduct such business for a period expiring June 30 next after the date of the issuance of such license. However, the issuance of a license is a privilege and is discretionary with the council and shall not issue as a matter of right.

(Code 1973, § 35.06(b))

Sec. 4-88. - Fee.

No license shall be issued under this division until the applicant therefor has paid to the director of finance the appropriate fee therefor prescribed in section 4-29(5), (6).

Chapter 5 - AMUSEMENTS^[1]

Footnotes:

— (1) —

Cross reference— *Adult entertainment establishments, Ch. 3; parks and recreation, Ch. 30.*

State Law reference— *Shows, circuses, amusement buildings and festivals, RSMo Ch. 316; pool tables, RSMo Ch. 318.*

ARTICLE I. - IN GENERAL

Secs. 5-1—5-15. - Reserved.

ARTICLE II. - AUTOMATIC AMUSEMENT DEVICES

Sec. 5-16. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amusement center, penny arcade shall mean any establishment which provides or operates six (6) or more automatic amusement devices or games of skill which are made available and used by the public.

Automatic amusement device shall mean any machine type game device or game of skill, whether or not activated by the insertion of a coin directly, or by any type of token, disc, or other piece purchased from a vendor to be inserted in said game device, whether or not said game device is manipulated by the player, which game device operates for the amusement of the player, and whether or not said game device registers a score. Nothing herein shall be construed to include as a game device any machine used solely for the vending of food, confections, cigarettes and other merchandise which upon insertion of a coin, token or disc, will deliver to the purchaser the product or merchandise advertised in said machine, or any coin operated bowling lanes or alleys.

(Code 1973, § 53.01)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 5-17. - Applicability of article.

This article shall not apply to any person having set up in his own private residence any one of such devices mentioned in this article when used for his own private use and for the use of his family, nor to clubs where pool, billiard and other amusement devices are used exclusively for club members, provided no charge for playing such game devices or games of skill is made.

(Code 1973, § 53.12)

Sec. 5-18. - Special use permit.

No person shall be entitled to obtain a business license for amusement centers or penny arcades unless and until such applicant shall first have obtained a special use permit from the council in the manner and as provided in section 49-19.0 of the zoning regulations of the city. If the application is granted, the director of finance is authorized to issue a special use permit and a business license to said applicant, provided all other provisions of this article are met by the applicant and the director of finance is satisfied that any applicable provisions of state law have been met.

(Code 1973, § 53.02)

Editor's note— Reference in § 5-18 to "section 49.17.0" has been changed to "section 49-19.0" to conform to the amended zoning ordinance, Ord. No. 88-2283, at the editor's discretion.

Sec. 5-19. - Location.

All types of businesses described in this article shall be located and situated on the ground floor or street level floor of a building and shall be so situated that they will provide a clear and unobstructed view of the complete interior thereof from the outside and no such place of business shall be maintained and operated in any room or place having any other room adjacent thereto and accessible therefrom with the exception of a storage closet, office space, and required separate toilet facilities for male and female patrons and employees.

(Code 1973, § 53.03)

Sec. 5-20. - Proximity of arcades to schools and churches.

- (a) No special use permit for amusement center or penny arcade shall be granted where the license premises would be located within a radius of two hundred (200) feet of a school or church, unless the council determines in writing and after a hearing that such premises are not detrimental to the educational and spiritual activities of such school or church; but this provision shall not apply to the transfer of a license from premises located within such distance to other premises located therein, if it is transferred to a location not less remote from the nearest school or church than its former location.
- (b) Any applicant who has been denied a license under this section shall have the right to an appeal.

(Code 1973, § 53.04)

Sec. 5-21. - Maintenance generally.

- (a) Every place of business contemplated by this article shall be maintained in an orderly manner and each business shall have at least eighty (80) percent of its game devices in good repair and operating at all times.
- (b) Permittee or business owner or manager shall be obligated to maintain and keep order at all times, and shall be obligated, on order of the chief of police of the city, to provide security personnel deemed adequate by the chief of police for the maintenance of order and proper decorum on the premises, and if not so provided, the council may upon notice and hearing revoke or suspend the business license or revoke the special use permit for such operation.
- (c) The operator shall employ and provide at least one (1) supervisor of at least eighteen (18) years of age who shall be present on duty at all times the premises shall be opened to the public.
- (d) All places of business contemplated by this article shall be closed during the hours of 11:30 p.m. Saturday until 1:00 p.m., Sunday, and between the hours of 11:30 p.m. and 11:00 a.m. on Sunday through Saturday.

(Code 1973, § 53.05)

Sec. 5-22. - Permitting minors on premises.

No child under the age of ten (10) years shall be permitted in any establishment regulated by this article unless accompanied by a parent or legal guardian. No person between the ages of ten (10) years and sixteen (16) years shall be permitted on the premises without having on his person an identification card issued by the operator, containing such person's name, age, home address and telephone number. No such identification card shall be issued by the operator unless he has received the written permission of the parent or legal guardian and confirmed the same. The operator shall maintain a permanent record of the names of the parents or legal guardians who have granted such permission and the names of the persons for whom they have granted such permission.

(Code 1973, § 53.06)

Sec. 5-23. - Licensee to enforce curfew at his place of business.

Every licensee of any business defined in this article will also be responsible for seeing that the existing curfew standards set forth by section 29-91 shall be observed and enforced at his place of business.

(Code 1973, § 53.08)

Sec. 5-24. - Alcoholic beverages, controlled substances, firearms, etc., prohibited on premises.

- (a) No intoxicating liquors or nonintoxicating beer, and no drugs or other controlled substances shall be sold or permitted anywhere upon the premises of any business defined herein and subject to the provisions of this article.
- (b) No firearms shall be permitted on the premises of any business defined and subject to the provisions of this article.
- (c) No money, merchandise or other emolument shall be paid to or given to any player based upon a score, a card or other reason or basis while playing or having played any game device or game of skill, except giving a player a free game for such score, card or cards, or other reason or basis. Any money, merchandise or other emolument except a free game, changing hands between licensee or any employee of licensee, and a player shall constitute gambling, which is prohibited.

(Code 1973, § 53.09)

Cross reference— Alcoholic beverages generally, Ch. 4; weapons offenses, § 29-136 et seq.; controlled substances, § 29-206 et seq.

Sec. 5-25. - Certain provisions to be posted.

Every licensee of six (6) or more machines mentioned in this article shall post in the room where the patrons play, one (1) or more placards, having the articles pertaining to permitting minors to play and standards of curfew, and intoxicating liquors, nonintoxicating beer, and drugs or other controlled substances, and gambling conspicuously and legibly written, painted or printed thereon in letters of not less than one-quarter inch in size for the information of players, patrons and employees.

(Code 1973, § 53.10)

Sec. 5-26. - Parking.

- (a) Before any special use permit shall be issued to any applicant for a license under this article, the director of public works shall determine the availability of parking on the following basis:
 - (1) Two (2) vehicular parking spaces shall be permitted on the premises for management and working personnel;
 - (2) One (1) vehicular parking space shall be provided on the premises for each two-game machines or games of skill for which licenses were obtained;
 - (3) If public off-street parking is available adjacent to the property to be used by applicant, premises parking shall not be required.
- (b) If an application is filed for any additional automatic amusement devices after the initial granting of a license, the licensee shall, before obtaining such permit for additional automatic amusement devices provide on the premises such parking as is required by this section, for all game machines licensed on said premises, except as provided for public off-street parking immediately adjacent to the property.

(Code 1973, § 53.11)

Cross reference— Stopping, standing and parking generally, § 44-251 et seq.

Sec. 5-27. - Revocation.

It shall be unlawful for any person within the city to commence doing business as herein set out without first complying with all of the provisions of this article, or, if after legally commencing business, to otherwise violate or fail to comply with the provisions of this chapter. Any such violating person may be subject to revocation of the special use permit if such permit was duly granted.

Chapter 6 - ANIMAL CONTROL^[1]

Footnotes:

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Cross reference— *Animal regulations for public parks, §§ 30-55, 30-67(3).*

Sec. 6-1. - Definitions.

For the purpose of this chapter, certain terms and words are hereby defined.

Adequate care shall mean normal and prudent attention to the needs of an animal, including wholesome food, clean water, shelter and health care as necessary to maintain good health in a specific species of animal.

Adequate control shall mean to reasonably restrain or govern an animal so that the animal does not injure itself, any person, any other animal or property.

Animal shall mean any living vertebrate member of the animal kingdom, excluding man.

Animal shelter shall mean any premises designated by action of the city for the purpose of confining and caring for all animals impounded pursuant to this chapter.

Animal control officer shall mean the person(s) employed by the city as the officer charged with the enforcement of this chapter, including police officers.

At large shall mean any dog found outside the residence structure of the person responsible for it and not effectively "under restraint" as defined herein, or any other animal not contained on the property of the person responsible for it and not effectively "under restraint."

Cat shall mean any member of the feline (genus *Felis*) family.

Compendium "Compendium of Animal Rabies Vaccines" as published by the National Association of State Public Health Veterinarians.

Dangerous animal shall mean any animal that constitutes a physical threat to human beings or other animals, or has a disposition or propensity to attack or bite any person or other animal without provocation, or which is wild by nature and of a species which, due to size, vicious nature or other characteristics, constitutes a danger to human life, physical well-being, or property; or any animal which has been known to bite or attack a human being or other domestic animal, without provocation, one (1) or more times, or any animal which, when unprovoked, chases or approaches a person upon the streets, sidewalks, or any public grounds, or any private property other than the property of the owner, in a menacing fashion or apparent attitude of attack, regardless of whether or not the person is injured by said animal.

Dog shall mean any member of the canine (genus *Canis*) family.

Euthanize shall mean the humane destruction of an animal.

Harbor shall mean to feed or shelter an animal at the same location for three (3) or more consecutive days.

Head of household shall mean the adult owner, renter, or lessee of a residence who actually resides in the residence.

Horse shall mean a large solid-hoofed herbivorous mammal of the genus and species *Equus caballus*, family *Equidae*, domesticated by man and generally used as a beast of burden or for riding. Unless otherwise specified in other provisions of this Code, the term "horse" shall not mean "miniature horse" which is separately defined herein.

Impound shall mean to apprehend, seize, catch, trap, net, quarantine, tranquilize, or confine an animal in a humane manner by the animal control officers.

Kennel shall mean any commercial business engaged in breeding, buying, selling or boarding dogs.

Livestock shall mean cows, mules, hogs, goats, sheep, domestic fowl or other animals commonly associated with farming and agriculture.

Miniature horse shall mean a domesticated, solid-hoofed herbivorous mammal of the genus and species *Equus caballus*, family *Equidae*, which measures no more than thirty-four (34) inches at the withers in height and weighing no more than three hundred fifty (350) pounds.

Neutered shall mean all animals that have been altered to prevent conception.

Person responsible for an animal or dangerous animal shall mean any person, firm, association, partnership, or corporation which owns, harbors, shelters, keeps, controls, manages, possesses, or has any ownership interest in any animal. An occupant of any premises on which an animal remains or customarily returns is a person responsible for it under this chapter. If a person under the age of seventeen (17) years owns an animal subject to the provisions of this chapter, the head of the household of which such person under the age of seventeen (17) years is a member shall be the person responsible for the animal under this chapter. There may be more than one (1) person responsible for an animal.

Pests shall mean birds, rabbits or rodents which damage property or have an adverse effect on the public health, but shall not include any endangered species listed by the United States Department of the Interior nor any endangered species listed in the state wildlife code.

Under restraint shall mean:

- (1) When a dog is attached to a leash held by a person that is capable of and is in fact controlling the dog in question; or
- (2) When an animal is within a vehicle from which the animal cannot escape while the vehicle is being driven, parked or stopped; or
- (3) When an animal is on the real property of a person responsible for the animal and within a secure structure from which it cannot escape.
- (4) A dog is under restraint while in heat or estrus within the meaning of this paragraph if:
 - a. It is kept in the residence of a person responsible for it and it can neither escape nor be reached by animals outside the residence; or

b. It is on a leash on the premises of a person responsible for it and is supervised by a person responsible for it.

(5) For any animal other than a dog, cat or livestock, "under restraint" shall mean in a cage from which it cannot escape.

Vaccination or registration or certificate shall mean the St. Louis County vaccination registration certificate.

(Ord. No. 88-2257, § 1, 2-9-88; Ord. No. 96-2874, § 1, 11-26-96; Ord. No. 97-2899, § 1, 3-11-97; Ord. No. 2008-3342, § 1, 2-26-08)

Cross reference— Definitions and rules of construction generally, § 1-2.

State Law reference— Similar definitions, RSMo 578.005.

Sec. 6-2. - Enforcement of chapter.

- (a) The city manager may appoint animal control officers to assist the police in the enforcement of this chapter. They shall have the same powers as police officers in carrying out the provisions of this chapter.
- (b) It shall be unlawful for any person to interfere with, hinder, molest, resist or obstruct employees of the division while they are carrying out any duty created under this chapter or other applicable law. It shall be unlawful for any person to conceal any animal for the purpose of evading the licensing requirements of this chapter.

(Ord. No. 88-2257, § 1, 2-9-88)

Sec. 6-3. - Inoculation required for dogs and cats.

- (a) Every person who is responsible for any dog or cat shall have such dog or cat vaccinated against rabies, and registered with the St. Louis County vaccination registration on or before the dog or cat reaches four (4) months of age, but not earlier than three (3) months of age.
- (b) No dog or cat shall be exempted from this section due to advanced age.
- (c) It is the duty of every person responsible for a dog to at all time have attached to the collar or harness of the dog a current St. Louis County rabies inoculation tag. Any dog found without such tag may be deemed to be not inoculated under this chapter. Nonresident dogs must display a current rabies inoculation tag from their community or proof of proper rabies inoculation, or be charged for not being properly inoculated in the City of Ferguson.
- (d) The copy of the certificate given to the person responsible for the dog or cat shall be retained by the person responsible for the dog or cat for inspection by the animal control officer or any police officer upon request.
- (e) The person responsible for any dog or cat which does not have a current certificate of inoculation must have the dog or cat vaccinated within seventy-two (72) hours after notification by the city or be subject to prosecution under this chapter.

(Ord. No. 88-2257, § 1, 2-9-88)

Sec. 6-4. - License required for dogs.

- (a) There is hereby levied an annual license tax for any dog four (4) months of age or older in the amount of three dollars (\$3.00). The license fee for any neutered dog shall be one dollar (\$1.00) if the application is accompanied by a certificate from a veterinarian stating the date neutered, the breed, sex, and description or markings of the dog.

- (b) No license shall be issued until a valid St. Louis County registration certificate is obtained. Upon presentation of such a document and upon payment of the license fees established in this section, the person responsible for the animal shall be issued a City of Ferguson license tag. A license tag expires when the duration of the immunity as noted on the certificate is exceeded.
- (c) It is the duty of every person responsible for a dog to attach the tag to the collar or harness of the vaccinated dog and determine that such collar or harness is worn by the dog at all times. Any dog found without a tag may be deemed to be not licensed under this chapter. Nonresident dogs must display a current tag from their community or a current rabies inoculation tag or I.D. tag if proof of proper rabies inoculation is available or be charged for not being properly tagged in the City of Ferguson.
- (d) The copy of the certificate given to the person responsible for the dog shall be retained by the person responsible for the dog for inspection by the animal control officer or any police officer.
- (e) License tags shall not be transferred from one animal to another. No person shall affix a license tag to a dog that has not been vaccinated against rabies. No person shall counterfeit, alter, or obliterate any license tag.
- (f) No person shall remove, or cause to be removed, the collar, harness or the license tag from any registered dog without the consent of the person responsible for the dog.
- (g) Seeing eye dogs, when used by a blind person, or dogs used to assist a hearing impaired person or handicapped person shall receive a license without charge upon presentation of a valid St. Louis County registration certificate.

(Ord. No. 88-2257, § 1, 2-9-88)

Sec. 6-5. - Dogs running at large prohibited.

- (a) Any dog at large shall be in violation of this chapter and may be taken by the police or animal control officers and impounded pending further action pursuant to this chapter or other law.
- (b) Any police or animal control officer seeing any dog running at large is authorized and empowered to follow said animal into, on or over private property while in pursuit of said animal.
- (c) For the purposes of determining the number of offenses committed and therefore subject to the escalation contained in the fines schedule, records shall be kept for three (3) years. Offense records shall be retained by household name and address.

(Ord. No. 88-2257, § 1, 2-9-88)

State Law reference— Animals restrained from running at large, RSMo Ch. 270.

Sec. 6-6. - Allowing defecation on property prohibited.

- (a) It shall be unlawful for the owner or handler of any animal to fail to remove fecal matter deposited by his animal on public property or public easement, or private property of another, before the owner leaves the vicinity where the fecal matter was deposited.
- (b) It shall be unlawful for an owner to allow the accumulation of animal feces in any run or cage wherein animals are kept and to fail to remove or dispose of feces at least once every twenty-four (24) hours. It shall be unlawful for an owner to allow the accumulation of animal feces in any open area or yard wherein animals are kept and to fail to remove or dispose of feces within a reasonable time. It shall be unlawful for an owner to allow the accumulation of animal feces or manure in any area used for agricultural or farming purposes and to fail to manage, remove and dispose of feces or manure as required by state law, ordinance or state or city permit.

- (c) It shall be unlawful for the owner or handler of any animal to fail to have in their possession, or within his or her accessible vicinity, the equipment necessary to remove their animal's fecal matter when accompanied by said animal on public property or public easement, or private property of another.
- (d) Any person found guilty of violating this section shall be guilty of a misdemeanor, and upon conviction shall be punished:
 - (1) By a fine of not less than twenty dollars (\$20.00) nor more than fifty dollars (\$50.00) for the first offense; or
 - (2) For the second and subsequent offenses occurring within one (1) year, a fine of not less than thirty dollars (\$30.00) nor more than one hundred dollars (\$100.00).
 - (3) The minimum fines provided for by this section are mandatory minimums, and shall not be suspended or deferred except in cases in which the court determines that the defendant is indigent and unable to pay any fine.

(Ord. No. 2005-3252, § 1, 10-11-05)

Sec. 6-7. - Impoundment.

- (a) The police and animal control officers shall have the power to impound dogs, cats and other animals as follows:
 - (1) Dogs and cats not wearing a valid, unexpired St. Louis County rabies inoculation tag;
 - (2) Dogs not wearing a valid, unexpired Ferguson license tag;
 - (3) All dogs, registered or unregistered, not under restraint as defined herein, regardless of whether or not the dog is under restraint at the time it is apprehended;
 - (4) Dogs and cats which have not been vaccinated within the seventy-two-hour period as required by section 6-3;
 - (5) All dogs or cats for which there is no person apparently responsible;
 - (6) Dogs, cats or other animals which have bitten a person or animal;
 - (7) All dogs, cats and other animals exposed to or suspected to be exposed to or infected with rabies, including dogs, cats, or other animals known to have been bitten by a rabid animal, whether or not the dog, cat or other animal to be impounded is under restraint or whether or not it is vaccinated;
 - (8) Dangerous animals which are not confined in the manner prescribed in section 6-12, or dangerous animals which have at any time escaped from confinement as required by section 6-12 whether or not the animals are so confined at the time of impounding;
 - (9) Animals whose owners have voluntarily and intentionally relinquished control to the city; and,
 - (10) Any animal creating a nuisance as defined in this chapter.
- (b) Dogs and cats seized and impounded pursuant to any provisions of this chapter may be impounded in the Ferguson Animal Shelter or may be released to the St. Louis County Animal Control, or other such agency. If retained in the Ferguson Animal Shelter, it may be put up for adoption or euthanized after a period of five (5) business days.

If the animal control officer knows the name and address of the person responsible for any dog or cat that has been impounded pursuant to this chapter, the animal control officer shall forward a notice to the owner that his dog or cat has been impounded and if it is not redeemed within five (5) days from the date it was impounded it may be disposed of as authorized by the Code of the City of Ferguson.

(c)

Any animal that is deemed by the animal control officer to be neglected, abused or mistreated in violation of this chapter may be impounded pending further action pursuant to this chapter or other law.

- (d) Animals diseased and disabled beyond recovery may be euthanized by a law enforcement official, veterinarian or animal control officer.

(Ord. No. 88-2257, § 1, 2-9-88; Ord. No. 2005-3252, § 1, 10-11-05)

Sec. 6-8. - Fines and imprisonment.

- (a) All violations of sections contained within Chapter 6, Animal Control, shall subject the violator to the fines and imprisonment established in section 1-15, "General penalty," of this Code.
- (b) For the purpose of determining the number of offenses committed, violation records shall be kept for a period of three (3) years. Violations records shall be retained by household name and by address.

(Ord. No. 88-2257, § 1, 2-9-88; Ord. No. 95-2806, § 1, 11-28-95; Ord. No. 2005-3252, § 1, 10-11-05)

Sec. 6-9. - Redemption by person responsible for animal.

Any animal impounded pursuant to this chapter may be redeemed by the person responsible for it upon satisfaction of all of the following conditions:

- (1) He/she shows a valid City of Ferguson dog license receipt for that animal; and
- (2) If he/she can not comply with the provisions of this chapter due to lack of a valid rabies inoculation, he/she shall accept a "72-hour notice" to comply with the provisions of this chapter and post a forty dollar (\$40.00) cash bond; and
- (3) He/she pays the release fee of ten dollars (\$10.00) plus boarding fees of five dollars (\$5.00) per day the animal is impounded; and
- (4) He/she pays all fines for violations of this chapter or in lieu thereof posts a bond in an amount equal to the fines for said violations to assure his/her court appearance.

(Ord. No. 88-2257, § 1, 2-9-88; Ord. No. 2005-3252, § 1, 10-11-05)

Sec. 6-10. - Adoption.

- (a) Animals impounded in the Ferguson Animal Shelter and not redeemed by the person responsible for it within five (5) business days of its capture, may be adopted.
- (b) All prospective owners adopting an animal through the city shall sign the "statement of adoption" and meet the requirements as stated therein.
- (c) If a new owner does not comply with the statement of adoption agreement, he or she shall be deemed in violation of this chapter and the animal may be reclaimed by the city. The adoption fees shall not be refundable.
- (d) An animal may be adopted within five (5) days of confinement if the person responsible for the animal signs a form relinquishing ownership and consenting to adoption.

(Ord. No. 88-2257, § 1, 2-9-88; Ord. No. 2005-3252, § 1, 10-11-05)

Sec. 6-11. - Animals creating a nuisance, prohibited.

- (a) Every person responsible for an animal shall keep it from being a nuisance.
- (b) An animal creates a nuisance if it:

- (1)

Soils, defiles, or defecates on property other than property of the person responsible for the animal unless such waste is immediately removed by a person responsible and deposited in a waste container or buried on grounds where the person has permission or the right to bury it.

- (2) Damages public property or property belonging to a person other than a person responsible for the animal.
- (3) Is maintained in a manner that is offensive, annoying or dangerous to the public health, safety or welfare of the community.
- (4) Causes a disturbance by frequent, repetitive, continuous, or excessive barking, howling, meowing, or other sounds made by it which unreasonably disturbs or interferes with the peace, comfort, and repose of property owners or possessors, and provided that, notwithstanding any other provision of this chapter, if the owner or other person having custody of the animal cannot, with reasonable inquiry, be located by an animal control officer duly authorized by the city, or if the animal has two or more violations of this subsection within a six-month period, the animal may be impounded.
- (5) Chases vehicles, including bicycles.
- (6) Without reasonable provocation attacks or bites persons or other animals.
- (7) Impedes refuse collection, mail delivery, meter reading or other public service activities.
- (8) Turns over, rummages through, or damages a refuse container.
- (9) Trespasses on property not owned, leased or rented by the person responsible for the animal.
- (c) Restriction on number of dogs kept outside a kennel. No person shall be permitted to own, maintain or keep more than three (3) dogs of the age of four (4) months or older on any premises of less than two (2) acres, unless they have been licensed by the city to operate a kennel.

(Ord. No. 88-2257, § 1, 2-9-88; Ord. No. 98-2989, § 1, 7-28-98; Ord. No. 2005-3252, § 1, 10-11-05)

State Law reference— Municipal authority to abate nuisances, RSMo 71.780.

Sec. 6-12. - Dangerous animals.

- (a) *Confinement.* A dangerous animal is "unconfined" if the animal is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the person responsible for the animal. The pen or structure must have secure sides and must be of such height, strength and construction so as to prevent the animal from jumping or climbing over, crawling through or under, the pen or structure. The sides of said pen or structure shall be built so that no part of said animal may extend through to the outside of the pen or structure, and so that no part of the human body may extend through to the inside of the pen or structure. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than two (2) feet. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.
- (b) *Confinement required.* The person responsible for a dangerous animal shall not permit the animal to go unconfined as defined in this section, except as permitted in section 6-12(c).
- (c) *Muzzle animal.* The person responsible for a dangerous animal shall not permit the animal to be unconfined unless the animal is securely muzzled and under restraint as defined in this chapter. The muzzle shall be made in a manner that will not cause injury to the animal or interfere with its vision or breathing but it shall prevent the animal from biting any human or other animal.
- (d) *Signs.* The person responsible for a dangerous animal shall display "dangerous animal" symbols and warning signs on his/her property visible from the street and on all sides of the pen or structure confining said animal. Said signs shall state: "Beware—Dangerous Animal on Property" or similar

phrase. The lettering on the sign shall be at least two (2) inches high.

- (e) *Animal fighting.* No person shall train, use, or possess any animal for the purpose of animal fighting.
- (f) *Insurance.* Owners of dangerous animals must, within sixty (60) days of the effective date of the ordinance from which this chapter derives and thereafter on an annual basis, provide proof to the city clerk that he/she has liability insurance in the minimum amount of one hundred thousand dollars (\$100,000.00) insuring the person responsible for any personal injuries inflicted by his/her dangerous animals.
- (g) *Exemption.* No animal may be declared dangerous if the threat, injury or damage was sustained by a person who, at the time, was committing or attempting to commit a crime.
- (h) *Dangerous animals found to be unconfined or not properly muzzled.* Any dangerous animal found to be unconfined or not securely muzzled and under restraint as defined by this chapter may be seized by any public officer or animal control officer and the owner may be brought to trial for violation of the provisions of this chapter. Upon establishment by a preponderance of the evidence that said animal is a "dangerous animal" and was found to be unconfined or not securely muzzled and under restraint as defined by this chapter, the court may order such animal to be euthanized. In addition, the owner shall be subject to such penalties as authorized by ordinance. Notwithstanding any other provisions of this chapter, any dangerous animal found to be unconfined or not securely muzzled and under restraint as defined by this chapter shall remain impounded until the court makes a determination as to whether said animal is a "dangerous animal" and was found to be unconfined or not securely muzzled and under restraint as defined by this chapter.
- (i) *Identification collar.* All dangerous animals shall wear a bright orange collar so that the animal can be readily identified as a dangerous animal at all times.
- (j) *Notification.* The owner of a dangerous animal shall immediately notify the police department if the animal is loose, unconfined, or missing; has attacked another animal or a human being, or has been sold, and if sold to another resident of the city, the name and address of the new owner, who also shall abide by this section.

(Ord. No. 88-2257, § 1, 2-9-88; Ord. No. 91-2515, § 1, 12-10-91; Ord. No. 96-2875, § 1, 11-26-96; Ord. No. 2005-3252, § 1, 10-11-05)

Sec. 6-13. - Confinement of animals which have bitten a human or have been exposed to or are suspected of having been exposed to rabies.

- (a) Any animal which has bitten a human shall be confined for a clinical observation period of ten (10) days not including the day the bite occurred. The person responsible for the animal shall prevent contact by such animal with humans or other animals.
- (b) Any animal which has been exposed to or is suspected of being exposed to rabies or has bitten a human being shall be confined for a period of ten (10) days or handled in a manner prescribed in the Compendium. The person responsible for the animal shall prevent contact by such animal with humans or other animals.
- (c) The confinement required under subsections (a) and (b) of this section shall be accomplished in one of the following manners:
 - (1) The animal may be confined at St. Louis County's impounding facilities for clinical observation, and, if alive at the termination of this period, shall be returned to the person responsible for the animal after payment of the St. Louis County fees and all fees imposed by section 6-9 of this

chapter. If the person responsible for an animal does not redeem the animal within three (3) days of the expiration of the date when same is permissible, the animal may be adopted or euthanized as authorized by this chapter.

- (2) At the election of the person responsible for an animal, said animal may be confined for the clinical observation period by a veterinarian in St. Louis County selected by and at the expense of the person responsible. The person responsible for the animal shall procure and file with the City of Ferguson a written statement from the veterinarian that the animal shall remain confined for the clinical observation period of ten (10) days, as requested by this chapter.
 - (3) The animal control officer or his/her agent may authorize the person responsible for the animal to confine the animal to his residence or other suitable place for the clinical observation period. If the animal is to be confined in a secure pen, it shall have an asphalt, wood or concrete floor, closed top and locked gate, assuring that the clinical observation period will be completed with the animal still confined. If confinement is authorized under this subparagraph, the person responsible shall not allow the animal outside the above-described pen or other suitable place approved by the animal control officer unless the animal is under restraint as defined by this chapter and is not removed from the real property of the person responsible for its quarantine.
 - (4) If the person responsible for the animal resides outside of St. Louis County and is leaving St. Louis County immediately to return to that residence and wishes to quarantine the animal under this subsection, the animal control officer may, at his discretion, permit such a quarantine, but only upon satisfaction of all of the following conditions:
 - a. The animal must be examined by a veterinarian in St. Louis County prior to leaving the county.
 - b. The police or animal control officer shall contact a veterinarian (who may be licensed by a state other than Missouri) who has attended the animal in the past to determine whether the animal is currently protected from rabies by an effective vaccination.
 - c. The veterinarian so contacted or another veterinarian designated by the person responsible must agree to examine the animal at the end of the quarantine period and to report the results of the examination to the animal control officer within three (3) days of such examination.
 - (5) For the purpose of this subsection, a veterinarian need not be licensed as a veterinarian in the State of Missouri if he is currently licensed in another state of the United States.
- (d) If an animal which is subject to the vaccination requirements of this chapter is not currently vaccinated, the animal must be vaccinated at the end of the confinement in either of the following manners:
- (1) By a veterinarian at the impounding facility following payment of the vaccination-registration fee.
 - (2) By a veterinarian selected by the person responsible following the release of the animal from quarantine and satisfaction of the following conditions:
 - a. At the end of the quarantine period, the person responsible for the animal shall be served with a seventy-two-hour notice form. Upon completion of the vaccination-registration procedure, the person responsible shall have the veterinarian complete this form and bring it to Ferguson City Hall along with the copy of the certificate of vaccination-registration of the St. Louis County Department of Community Health and Medical Care to purchase a City of Ferguson license tag for the dog.
 - b.

The person responsible for the animal shall have the animal vaccinated within seventy-two (72) hours following return of the animal to him. Failure to vaccinate the animal shall be a separate violation of this chapter, and will subject the animal to further impoundment until the vaccination-registration is completed.

- (e) If an animal confined pursuant to this section dies during the observation period, regardless of the location or the cause of death, the head shall be removed and submitted to a laboratory designated by the St. Louis County Health Department for examination for rabies.

(Ord. No. 88-2257, § 1, 2-9-88; Ord. No. 2005-3252, § 1, 10-11-05)

Sec. 6-14. - Animal carcasses.

- (a) It shall be the duty of all persons having a dead animal upon their premises, or who shall be the owners or possessors of any dead animal which died within the city, to bury the same under at least three (3) feet of packed earth cover, either upon the premises of the owner, or any other burial place approved by the animal control officer, within forty-eight (48) hours after the animal dies.
- (b) No person shall bury the body of any dead horse, mule, cow, ox, goat, hog, sheep or other large animal weighing over forty (40) pounds within the city, and the owner or person in possession of any property shall not permit any such animal to be buried on his property.

(Ord. No. 88-2257, § 1, 2-9-88; Ord. No. 2005-3252, § 1, 10-11-05)

State Law reference— Placing animal carcasses in streams, wells or waters prohibited, RSMo 577.076.

Sec. 6-15. - Kennels.

- (a) *Permit.*

- (1) Every person operating, either as owner, lessee, agent or superintendent, any dog kennel or any premises or building for the purpose of trafficking in or raising, selling or exchanging dogs shall secure a permit and otherwise comply with the provisions of the zoning regulations and this chapter.
 - (2) No permit shall be issued by the director of public works unless the application therefor is first referred to and approved by the plan commission and is found by the commission not to endanger the public health, safety and welfare by its issuance.

- (b) *Location.* A kennel shall be located in a section of the city which is well isolated and all animals shall be kept not less than fifty (50) feet from any door, window or opening of any private dwelling. If, however, any kennel has been established in a congested area, the animals shall be held in a soundproof room. All feed for animals in the kennel shall be stored in rat-proof containers, tightly covered.

(Ord. No. 88-2257, § 1, 2-9-88; Ord. No. 2005-3252, § 1, 10-11-05)

Sec. 6-16. - Livestock.

- (a) *Running at large prohibited.*

- (1) No person shall permit any livestock in their possession to run at large, in or upon the public streets, open lots or private properties of the city, other than that of the owner. The livestock must remain within a fenced area upon property owned or leased by the permittee.
 - (2) When any such animals are found running at large within the city, it shall be the duty of the animal control officer to restrain the same in a suitable place to be provided or procured under order of the city manager. Any animal or fowl impounded shall be kept at least three (3) days and

the owner notified. If the owner fails to claim such animal, or if the owner cannot be found, the animal shall be turned over to the Humane Society of Missouri, or other such agency.

(b) *Permit to keep livestock.*

- (1) No person shall operate or maintain any specified animal facility unless a permit has first been obtained from the director. If a resident is keeping livestock without a permit, they are subject to prosecution for an ordinance violation and subject to the penalties set forth in this Code.
- (2) Any person desiring to keep or maintain any livestock within any residential area of the city may do so only upon obtaining a permit for same from the city. All livestock permits shall be issued for a period not to exceed one (1) year and such permits shall be renewed annually by July 1 of each year. The annual permit fee shall be the same amount as the fee imposed by the City of Ferguson for a dog license; a fee shall be paid for each animal kept on the same property. Any permit may be suspended or revoked in accordance with the process outlined in this section revocable by the city if the keeping of any animal is found to endanger the health, safety or welfare of the public or the animals themselves, creates a nuisance or is in violation of state law or regulation or city ordinance. Each application for a livestock permit shall be signed by both the property owner and the tenant or occupant of the property where the livestock are proposed to be kept and shall contain a detailed site plan showing all improvements and facilities, including fences, for the keeping of livestock along with the distances between such improvements and property lines, adjacent facilities and other structures. All livestock and improvements, animal facilities, houses, buildings, pens and coops shall comply with the following requirements:
 - a. The facility shall be in good repair, capable of being maintained in a clean and in a sanitary condition, free of vermin, noxious smells and substances.
 - b. No person shall have more than six (6) egg-laying fowl on a residential lot that is ten thousand (10,000) square feet or less. For lots larger than ten thousand (10,000) square feet, one (1) additional egg-laying fowl may be allowed for each additional ten thousand (10,000) square feet. No roosters shall be allowed on any residential property.
 - c. The facility, or the conditions created by the facility, shall not create a nuisance or disturb neighboring residents due to noise, odor, damage or threats to the public health, safety and welfare.
 - d. Livestock must be kept in an enclosed fenced area which meets the setback requirements at all times; provided, however, that if a six-foot privacy fence is installed along the property's boundaries and fully encloses the yard where livestock is kept, an additional enclosure within the setback requirements is not required. All fencing and enclosures shall reasonably prevent the specified animal from roaming at large or beyond the fenced area. No person shall keep any livestock within a dwelling. Fowl shall be secured within a permitted enclosure during non-daylight hours.
 1. All facilities for livestock, including but not limited to henhouses, pens, coops, feeding troughs and stations, nesting facilities and grazing areas, shall only be located in the rear yard. All facilities, including fencing, for fowl and rabbits shall be located on the applicant's property and must be located at least ten (10) feet from the property line and at least thirty (30) feet from any adjacent residential dwelling, church, school or place of business. All facilities, including fencing, for other livestock shall be located on the

applicant's property and must be located at least fifty (50) feet from the property line. No livestock shall be allowed to roam, graze or be present within the setbacks described in this section.

2. Livestock enclosures shall be enclosed on all sides and shall have a roof and doors. Access doors must be able to be shut and locked at night. Rabbits and fowl enclosures that have opening windows and vents must be covered with predator and bird proof wire of less than one-inch openings.
 3. The materials used in making a livestock enclosure shall be uniform for each element of the structure such that the walls are made of the same material, the roof has the same shingles or other covering, and any windows or openings are constructed using the same materials. The use of scrap, waste board, sheet metal, or similar materials is prohibited. The enclosure shall be well maintained.
 4. All improvements and structures must comply with the city's building code, if applicable based on the size of the accessory structure, and must be consistent with the requirements of any applicable zoning code, condition of approval of a land use decision or other land use regulation. All improvements and structures shall be subject to applicable permitting and inspection requirements when first constructed or when structural alterations are made.
- (3) Each permit issued by the director shall be conditioned on the applicant maintaining all livestock, facilities and enclosures in compliance with all applicable law and regulation, including city ordinance, and compliance with any other permit conditions which the director deems necessary to preserve the public health, safety and welfare and prevent nuisances, including limitations on the number of animals and additional requirements for the improvements and facilities.
- (4) If an inspection reveals that any provision in this chapter is violated, the director shall mail written notice to the property owner at the owner's last known address of record or to the keeper or other responsible person, specifying the violation and requiring that the violation be corrected within seventy-two (72) hours. If the violation is not corrected within the period specified, the permit shall be subject to suspension or revocation and the following procedure shall be followed:
- a. The director or his/her designee shall set a hearing to consider the question of suspension or revocation.
 - b. At least ten (10) days prior to such hearing, written notice shall be mailed to the permittee at his/her or its known address as shown in the records of the county or the city advising the permittee of the time and place of the hearing and of the reason for considering the suspension or revocation of the permit.
 - c. During the pendency of this hearing and until a decision is rendered by the hearing officer, the licensee shall be permitted to continue the keeping of existing livestock, provided however, that the pendency of such hearing shall not preclude prosecution for violation of the ordinances of the city occurring during such period.
 - d. At the hearing, the hearing officer, who shall be the director or his/her designee, shall hear all relevant evidence justifying the suspension or revocation of the permit and shall grant the permittee to relay all relevant evidence justifying the retention of the permit.
 - e.

The director or his/her designee shall notify the permittee of the results of the hearing in writing within five (5) business days of the hearing. If the permit is suspended or revoked, the director shall state in his/her order the date by which all livestock and/or facilities and improvements shall be removed from the property which shall be, at minimum, ten (10) days from the date of the order.

- f. In the event that a permittee whose permit has been suspended or revoked pursuant to this section, or a related entity of a permittee whose permit has been revoked pursuant to this section, shall thereafter apply for a substantially similar permit, the licensing official may take into account the act(s) and circumstances which lead to the suspension or revocation in considering the new application.
 - g. Any person aggrieved by the determination of the hearing officer aforesaid may seek review of such decision by the city manager. A written request for review must be submitted by the aggrieved party within five (5) days of the date of the determination for which review is sought. The written request for review shall, at minimum, set forth all reasons known to the applicant as to wherein and why the administrative determination is in error and the evidence which supports such assertions.
 - h. The filing of a request for review shall not stay the outcome of the administrative determination unless the city manager shall suspend the effect of the determination upon request of the aggrieved party.
 - i. The city manager may, at its option, review the determination on the basis of the city's files and the record of the prior proceedings or may hold an additional hearing thereon. The city manager shall reduce the results of his review to writing and give notice thereof to all parties.
 - j. Any person aggrieved by the decision of the city manager may seek further review to the city council by filing a written request within five (5) days of the city manager's decision. The written request shall, at minimum, set forth all reasons known to the applicant as to wherein and why the administrative determination is in error and the evidence which supports such assertions.
 - k. Any person aggrieved by the decision of the city council may seek judicial review by filing a petition for same with the Circuit Court of St. Louis County within fifteen (15) days of the date of the council's decision.
- (5) Following suspension or revocation of a permit, before operation of the facility resumes or any livestock is located or placed upon the property, submission of a new application for a specified animal facility permit accompanied by payment of the permit fees shall be required, and the facility shall not be allowed to operate and livestock shall not be allowed to be kept on the property until an appropriate permit is approved and issued.
- (6) Variances.
- a. Where there are practical difficulties or unnecessary hardship in carrying out the strict letter of the provisions of this chapter, the city council may vary or modify the application of specific area regulations for any physical improvement, facility or structure so that the spirit of the Municipal Code shall be observed, public safety and welfare secured, and substantial justice done.
 - b. There shall be no variance allowed regarding the number of animals that may be kept on residential property.
 - c.

No application for variance may be submitted to the city council unless it contains the signature of the property owner and tenant or other occupant of the property where the livestock are to be kept and the signature of the owners of all properties which are directly adjacent to the applicant's property. Each application for variance shall contain a detailed site plan showing the proposed improvements, facilities or improvements, shall be on an application form approved by the city and shall be accompanied by the appropriate application fee.

- d. Upon receipt of a fully-completed application, the city council shall set a date for a public hearing with notice being published at least fifteen (15) days prior to the public hearing.
- e. A variance from the specific area regulations for physical improvements, facilities or structures set forth in this section may be granted where it is found that, due to a condition relating to the shape, topography or other unique physical condition of the lot which is not prevalent in the neighborhood, the applicant would be subject to practical difficulties or unnecessary hardship. The loss of possible advantage, financial considerations or mere inconvenience to the applicant shall not be considered as practical difficulties or unnecessary hardship.

(Ord. No. 88-2257, § 1, 2-9-88; Ord. No. 2005-3252, § 1, 10-11-05; Ord. No. 2013-3522, § 1, 3-26-13)

Sec. 6-17. - Cruelty and mistreatment.

(a) *Scope of section.* The provisions of this section shall not apply to:

- (1) Care or treatment performed by a licensed veterinarian within the provisions of RSMo Ch. 340;
- (2) Bona fide scientific experiments;
- (3) Hunting, fishing or trapping as allowed by RSMo Ch. 252, including all practices and privileges as allowed under the state wildlife code;
- (4) Facilities and publicly funded zoological parks currently in compliance with the federal animal welfare act as amended;
- (5) Rodeo practices currently accepted by the Professional Rodeo Cowboy's Association;
- (6) The humane killing of an animal by the owner thereof, the agent of such owner or by a veterinarian at the request of the owner;
- (7) The lawful euthanizing of an animal by an animal control officer, the operator of an animal shelter, a veterinarian or law enforcement or health official;
- (8) With respect to farm animals, normal or accepted practices of animal husbandry;
- (9) The killing of an animal by any person at any time if such animal is outside of the owned or rented property of the person responsible for such animal and the animal is injuring any person or animal but shall not include police or guard dogs while working;
- (10) The killing of house or garden pests; and
- (11) Field trials, training and hunting practices as accepted by the Professional Houndsmen of Missouri.

(b) *Animal neglect.*

- (1) A person is guilty of animal neglect when he is responsible for an animal and fails to provide adequate care or adequate control.
- (2)

All fines and penalties for a first conviction of animal neglect may be waived by the municipal court provided that the person found guilty of animal neglect shows that adequate, permanent remedies for the neglect have been made. Reasonable costs incurred for the care and maintenance of neglected animals may not be waived.

- (c) *Animal abuse.* A person is guilty of animal abuse when he/she:
- (1) Intentionally or purposely kills an animal in any manner not allowed by or expressly exempted from this section;
 - (2) Purposely, intentionally or recklessly causes injury, suffering or pain to an animal;
 - (3) Abandons an animal within the City of Ferguson without making provisions for its adequate care;
 - (4) Overworks or overloads an animal, or drives or works an animal unfit to work; and
 - (5) Being the person responsible for an animal, willfully fails to provide adequate care or adequate control.
- (d) *Responsibility of parent or guardian of minor.* The parent or guardian of a minor child is responsible for the adequate care of any animal by, in the control of, or harbored by that minor child.
- (e) *Molesting birds.* No person shall frighten, shoot at, take, capture, ensnare, net, trap or in any other manner molest any robin, lark, whippoorwill, finch, sparrow, thrush, wren, swallow, snowbird, bob-o-link, red-winged blackbird, crow, bluejay, raven, oriole, kingbird, mockingbird, song sparrow or other song bird or insectivorous bird, or in any manner molest the nest, eggs or young of any such bird.

(Ord. No. 88-2257, § 1, 2-9-88; Ord. No. 2005-3252, § 1, 10-11-05)

State Law reference— Similar provisions, RSMo 578.007, 578.009, 578.012(1), 578.014.

Sec. 6-18. - Keeping of nondomestic animals.

No person shall maintain or harbour a nondomestic animal, as defined by the St. Louis County Non-Domestic Animal Code, in the City of Ferguson unless it is duly licensed with St. Louis County.

(Ord. No. 88-2257, § 1, 2-9-88; Ord. No. 2005-3252, § 1, 10-11-05)

Sec. 6-19. - Pot-bellied pigs.

- (a) One (1) domesticated Vietnamese potbellied pig may be kept in residentially-zoned areas of the city provided that males over the age of four (4) weeks and females over the age of one hundred twenty (120) days are neutered and adult pigs do not exceed ninety-five (95) pounds in weight. All such animals must be of proven purebred lineage and the owner must be able to produce litter papers to verify pedigree. In addition, pigs over the age of one hundred twenty (120) days must be registered and licensed as required of dogs pursuant to section 6-4 of this chapter. Fees for such license will be the same as for neutered dogs and the application for said license shall be accompanied by a certificate from a veterinarian stating the date neutered, the sex, and description of the pig. Further, before said license is issued, a certificate of immunization from a licensed veterinarian that such Vietnamese potbellied pig has been vaccinated against pseudorabies must be submitted. Sections 6-1 through 6-18 of this chapter shall also apply to domesticated Vietnamese potbellied pigs where applicable.
- (b) Every pen, run, cage, or yard wherein any Vietnamese potbellied pig is kept shall be maintained so that no offensive, disagreeable, or noxious smell, odor, or stench shall arise therefrom to the injury, annoyance, or inconvenience of any neighbor(s). All waste materials shall be removed and disposed of at least every twenty-four (24) hours.

- (c) No person shall permit any domesticated Vietnamese potbellied pig in their possession to run at large, in or upon the public streets, open lots or private properties of the city, other than that of the owner.
- (d) When any such animal is found running at large within the city, it shall be impounded and/or disposed of as set forth in sections 6-5 and 6-7 of this chapter and the provisions of said sections applying to dogs, cats and other animals shall also apply to Vietnamese potbellied pigs.
- (e) The license issued pursuant to section 6-19(a) shall only be granted if it is found that the keeping or maintenance of said Vietnamese potbellied pig will not endanger the public health, safety and welfare of the citizens of Ferguson. Such licenses shall expire and be renewed as set forth in section 6-4(b) and are revocable by the city if the keeping of the animal is found to endanger the health, safety, or welfare of the public or the animals themselves.
- (f) No person shall confine or allow to be kept or confined any Vietnamese potbellied pig in the City of Ferguson without constructing a house, building, or pen on their property which shall not be kept closer than five (5) feet to any side or rear lot line of the lot or tract of ground upon which it is located. No potbellied pigs shall be kept or confined in any front yard.

(Ord. No. 95-2794, § 1, 10-10-95; Ord. No. 2005-3252, § 1, 10-11-05)

Sec. 6-20. - Rabbits.

Nothing contained in this chapter shall prohibit the keeping of domesticated rabbits in the City of Ferguson, Missouri, provided, however, that the number per dwelling unit does not exceed three (3) and that all other sections of this chapter including, but not limited to section 6-16(b)(2) are complied with.

(Ord. No. 95-2793, § 1, 10-10-95; Ord. No. 2005-3252, § 1, 10-11-05)

Sec. 6-21. - Regulation of pit bull dogs.

- (a) *Unlawful to keep; exception.* It shall be unlawful to keep, harbor, own, or in any way possess, within the corporate limits of the City of Ferguson, Missouri, any pit bull, provided that pit bull dogs residing in the city on the effective date of this section may be kept within the city subject to the standards and requirements herein set forth.
- (b) *Definition.* Pit bull dog is defined to mean:
 - (1) Staffordshire bull terrier breed of dog;
 - (2) The American pit bull terrier breed of dog;
 - (3) The American Staffordshire terrier breed of dog;
 - (4) Any mixed breed of dog which contains as an element of its breeding the breed of Staffordshire bull terrier, American Staffordshire terrier, or American pit bull terrier, as to be identifiable as partially of the breed of Staffordshire bull terrier, American Staffordshire terrier, or American pit bull terrier;
 - (5) Any dog which has the appearance and characteristics of being predominately of the breeds of Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, and other breeds commonly known as pit bulls, pit bull dogs, or pit bull terriers, or a combination of any of these breeds.
- (c) *Standards for keeping.* Pit bull dogs residing in the city on the effective date of this section may be kept by their owners within the city, subject to the following standards:
 - (1)

Pit bull dogs residing in the city on the effective date of this section must be registered with the city code enforcement director by the owner(s) within ten (10) days of the effective date of this section.

- (2) No person shall permit a pit bull dog to go outside its enclosure or pen unless such dog is securely leashed with a leash no longer than four (4) feet in length. No person shall permit a pit bull dog to be kept on a chain, rope, or other type of leash outside its enclosure or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all pit bull dogs on a leash outside the animal's enclosure or pen must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
- (3) All pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or enclosure, except when leashed and muzzled as above provided. Such pen, enclosure, or structure must have secure sides and a secure top attached to the sides. All structures used to confine pit bull dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two (2) feet. All structures erected to house pit bull dogs must comply with all zoning and building regulations of the city. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
- (4) No pit bull dog may be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.
- (5) All owners, keepers, or harborers of pit bull dogs within the city shall within ten (10) days of the effective date of this section display in a prominent place on their premises a sign easily readable by the public using the words, "Beware of Dog—Pit Bull." In addition, a similar sign is required to be posted on the enclosure or pen of such animal.
- (6) All owners, keepers, or harborers of pit bull dogs must within ten (10) days of the effective date of this section provide proof to the city code enforcement director of public liability insurance in a single incident amount of one hundred thousand dollars (\$100,000.00) for bodily injury to or death of any person(s) or for damage to property owned by any person(s) which may result from the ownership, keeping, or maintaining of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the code enforcement director. An effective insurance policy with the coverage and in the amounts specified herein must be maintained by the owner, keeper, or harborer at all times.
- (7) All owners, keepers, or harborers of registered pit bull dogs registered with the city code enforcement director must, within ten (10) days of the effective date of this section, provide to the city code enforcement director two (2) color photographs (two (2) different poses) of the animal clearly showing the color and approximate size of the animal.
- (8) All owners, keepers, or harborers of pit bull dogs must, within ten (10) days of the incident, report the following information in writing to the city code enforcement director as required hereinafter:
 - a. The removal from the city or death of a pit bull dog.
 - b. The birth of offspring of a pit bull dog.
 - c.

The new address of a pit bull dog owner should the owner move from one address within the corporate city limits to another address within the corporate city limits.

- (9) No person shall sell, barter, or in any other way dispose of a pit bull dog registered with the city to any person within the city unless the recipient person resides permanently in the same household and on the same premises as the registered owner of such dog; provided that the registered owner of a pit bull dog may sell or otherwise dispose of a pit bull dog or the offspring of such dog to persons who do not reside within the city.
 - (10) All offspring born of pit bull dogs registered with the city must be removed from the city within six (6) weeks of the birth of such animal.
 - (11) There shall be an irrebuttable presumption that any dog registered with the city as a pit bull dog or any of those breeds prohibited by this section is in fact a dog subject to the requirements of this section.
- (d) *Violations and penalties.*
- (1) It shall be unlawful for the owner, keeper, or harbinger of a pit bull dog registered with the city to fail to comply with the requirements and conditions set forth in this section. Any dog found to be the subject of a violation of this section shall be subject to immediate seizure and impoundment.
 - (2) Any person violating or permitting the violation of any provision of this section shall, upon conviction in municipal court, be subject to the fines and imprisonment established in section 1-15, general penalty, of this code. In addition, the court shall order the registration of the subject pit bull revoked and the dog removed from the city. Should the defendant refuse to remove the dog from the city, the municipal judge may find the defendant/owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this section continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this section shall pay all expenses, including shelter, food, handling, veterinary care, and testimony necessitated by the enforcement of this section.

(Ord. No. 96-2873, § 1, 11-26-96; Ord. No. 2005-3252, § 1, 10-11-05)

Sec. 6-22. - Horses and miniature horses.

(a) *Running at large prohibited.*

- (1) No person shall permit any horse or miniature horse in their possession to run at large, in or upon public streets, open lots, or private properties of the city other than that of the owner.
- (2) When any such horse or miniature horse is found running at large within the city, it shall be the duty of the animal control officer or other officer designated by the city manager to restrain the same in a suitable place to be provided or procured under order of the city manager. Any horse or miniature horse impounded shall be kept at least three (3) days and the owner notified. If the owner fails to claim such horse or miniature horse, or if the owner cannot be found, the horse or miniature horse shall be turned over to the Humane Society of Missouri, or other such agency.

(b) *Permit to keep horses.*

- (1) Any person desiring to keep or maintain one (1) or more horses within any residential area of the city may do so only upon obtaining a permit for the same from the city. The permit shall be granted if it is found that the keeping or maintaining of said horse will not endanger the public health, safety and welfare. Such permit shall be renewed annually on July 1 of each year and is revocable by the city if the keeping of any horse is found to endanger the public health, safety and welfare or of the horses themselves.

- (2) No permit shall be issued for keeping horses on lots or parcels of land of less than three (3) acres. On lots or parcels of land of three (3) acres, one (1) horse shall be permitted. For each additional acre above three (3), one (1) addition horse may be kept.
 - (3) Any stable, barn, or other shelter for the housing of horses shall be setback a minimum of fifty (50) feet from every property line.
 - (4) Any lot or parcel containing one (1) or more horses shall provide a fence to contain the horse(s) and such fence shall be of sufficient height to prevent the horse(s) from running at large.
- (c) *Keeping of miniature horses.*
- (1) No person shall keep a miniature horse within any residential area unless: (i) such person has a permit to do so from the city; or (ii) the property is at least one (1) acre in size. Under no circumstances shall any person be allowed to keep more than two (2) miniature horses per acre.
 - (2) No person shall keep a miniature horse in any manner which is detrimental to the public health, safety welfare or to that of the miniature horse.
 - (3) Any stable, barn, building or other shelter used for the housing or keeping of miniature horses shall be setback a minimum of fifty (50) feet from every property line.
 - (4) Any lot or parcel containing one (1) or more miniature horses shall provide a fence to contain the miniature horse(s) and such fence shall be of sufficient height to prevent the miniature horse(s) from running at large.

(Ord. No. 97-2899, § 1, 3-11-97; Ord. No. 2005-3252, § 1, 10-11-05; Ord. No. 2008-3342, § 2, 2-26-08)

Chapter 7 - BUILDINGS AND BUILDING REGULATIONS^[1]

Footnotes:

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Cross reference— *Fire prevention and protection, Ch. 17; floodplain management, Ch. 18; fire housing code, § 21-16 et seq.; mobile homes and trailers, Ch. 27; solid waste, Ch. 37; streets, sidewalks and other public places, Ch. 40; numbering buildings, § 40-1; subdivision regulations, Ch. 41; utilities, Ch. 45; zoning Ch. 49.*

ARTICLE I. - IN GENERAL

Sec. 7-1. - Permit fees and costs.

- (a) The city council has established a schedule of fees for various permits including but not limited to building permits, electrical permits, plumbing permits, mechanical permits and grading permits. All such fees shall be paid to the city prior to issuance of such permit and no final action shall be taken with regard to any permit until all fees pertaining to such permit have been paid in full.
- (b) The applicant and the property owner/developer shall be jointly responsible for all fees and costs relating to any permit.
- (c) The city may retain an independent engineer or other consultant to review the plans or other materials submitted as part of an application for a building permit, electrical permit, plumbing permit, mechanical permit, grading permit or other type of permit, if, in the opinion of the city's staff or council, such review is necessary. If the city retains an independent engineer or other consultant to review the plans or materials, the applicant and property owner/developer shall be responsible for all fees, costs and expenses relating to the review by such engineer or consultant. The applicant will subsequently be billed, by the city, for the fees, costs and expenses of the review.

(Ord. No. 2008-3351, § 4, 4-15-08)

Secs. 7-2—7-15. - Reserved.

ARTICLE II. - ARCHITECTURAL BOARD^[2]

Footnotes:

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Cross reference— *Boards, commissions and committees, § 2-381 et seq.*

Sec. 7-16. - Established; composition.

There is hereby established a board to be known as the architectural board. The board shall consist of three (3) members.

(Code 1973, § 23B.1)

Sec. 7-17. - Members.

- (a) *Qualifications.* Only duly licensed architects in good standing in their profession who are residents of the city, shall be eligible as members of the architectural board, except that one (1) member may be a resident engaged in a building construction trade.
- (b) *Appointment, term, removal.* Each member of the architectural board shall be appointed by the mayor, with the approval of the council, for a term of five (5) years, or until a successor is duly appointed by the mayor and approved by the council. Members shall be removable, without cause, at the will of the mayor with the consent of the council.
- (c) *Attendance at meetings by a councilman.* A councilman selected by the council shall attend meetings of the architectural board and shall have the right of discussion in accordance with the board's rules and regulations, but shall not be entitled to vote.

(Code 1973, §§ 23B.2, 23B.3; Ord. No. 89-2389, § 1, 12-5-89)

Sec. 7-18. - Meetings.

Meetings of the architectural board shall be held at the call of the chairman, who shall be designated by the mayor, and at such other times as the board may determine. Two (2) members shall constitute a quorum; and, in the absence of the chairman, the member next in seniority shall be the acting chairman. Meetings of the board may be called by the mayor. No official action of the board shall be taken, except at a meeting open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or if failing to vote, indicating such fact. A majority of the board may adopt rules and regulations to govern the procedure before the board.

(Code 1973, § 23B.4)

Sec. 7-19. - Submission of building permit applications.

Every application for a building permit, except for alterations and repairs not affecting the outward appearance of a building, shall be submitted along with plans, elevations, detail drawings and specifications to the architectural board before being approved by the building official. Residences in new subdivisions may be approved en mass at the time of plat approval, if all necessary plans and specifications are submitted.

(Code 1973, § 23B.5.1)

Sec. 7-20. - Approval of building permit applications.

Within three (3) days after an application shall have been submitted to the board, the chairman shall examine the same and shall determine whether the proposed structure will conform to proper architectural standards in appearance and design and will be in general conformity with the style and design of surrounding structures and conducive to the proper architectural development of the city. If, in his opinion, the proposed structure will so conform, he shall approve the application and return the same to the building official forthwith.

(Code 1973, § 23B.5.2)

Sec. 7-21. - Hearing on building permit applications.

- (a) If, in the opinion of the chairman, the proposed structure will not so conform, or if the chairman has a doubt concerning the subject, he shall call a meeting of the board and notice of the time and place of the meeting shall be given to the applicant. At the meeting, the board shall examine the plans, elevations, detail drawings and specifications, hear the applicant in reference thereto, and any other evidence that may be pertinent.
- (b) At such meeting and after such hearing, or at any meeting within fifteen (15) days subsequent thereto, the architectural board shall approve the application if, in its opinion, the proposed structure will conform to proper architectural standards of appearance and design and will be in general conformity with the style and design of surrounding structures and conducive to the proper architectural development of the city.

(Code 1973, § 23B.5.3)

Sec. 7-22. - Disapproval of building permit applications.

The board shall disapprove the application if it determines that the proposed structure will constitute an unsightly, grotesque or unsuitable structure in appearance, and be detrimental to the welfare of adjoining and surrounding properties of residents or owners and may make recommendations in regard to such application if it sees fit.

(Code 1973, § 23B.5.4)

Sec. 7-23. - Failure to approve or disapprove building permit applications.

If the board cannot decide that the proposed structure will come within either classification provided in section 7-21(b) or section 7-22, it shall return the application, together with the plans, elevations, detail drawings and specifications to the building official without either the approval or disapproval of the board, but shall make such suggestions and recommendations in regard thereto as it may see fit.

(Code 1973, § 23B.5.5)

Sec. 7-24. - Action on building permit applications by building official.

- (a) If the board returns the application to the building official without disapproval, the building official may issue the permit. Failure by the board to act within thirty (30) days after the building official shall have delivered the plans to the board shall constitute action under the preceding paragraph.
- (b) If the board shall return the application to the building official with disapproval and recommendations, the building official may issue the permit, provided that the applicant shall make appropriate changes in the drawings and specifications and agree to comply with the recommendations of the board.

(c)

If the board shall return the application to the building official with its disapproval and without recommendations, or with its disapproval with recommendations and the applicant shall refuse to comply with the recommendations, the building official shall refuse to issue the permit.

(Code 1973, § 23B.6)

Sec. 7-25. - Denial of building permit—Appeal to council.

If any application is refused by the building official, the applicant may appeal to the council to review the decision of the architectural board. An appeal may be taken by an applicant by filing with the city clerk, together with the payment of a fee of twenty dollars (\$20.00), a letter asking for a public hearing before the council and attaching to such letter a copy of the report of the board.

(Code 1973, § 23B.7)

Sec. 7-26. - Same—Hearing by council.

- (a) Upon an appeal being taken, the city clerk shall publish once a week for two (2) consecutive weeks in a newspaper of general circulation in the city notice of the hearing together with a copy of the report of the architectural board. The hearing shall be before a regular or special meeting of the council held not more than sixty (60) nor less than thirty (30) days after the date of the taking of the appeal.
- (b) The council, at such hearing, shall hear such interested parties as may desire to be heard and after such hearing shall approve or disapprove the application, or shall approve the same subject to recommendations or conditions. If the council approves the application or approves the same subject to conditions and the applicant complies with the conditions, the permit shall be issued forthwith, otherwise no permit shall be issued. The action of the council in regard to the application, together with the report of the architectural board, shall spread on the minutes of the council.

(Code 1973, § 23B.8)

Secs. 7-27—7-40. - Reserved.

ARTICLE III. - BUILDING CODE^[3]

Footnotes:

— (3) —

Cross reference— *Buildings not in compliance with building code deemed "dangerous buildings," § 7-190(10).*

Sec. 7-41. - Adoption of 2006 International Building Code.

The 2006 International Building Code, as published by the International Code Council, is hereby adopted as the building code of the city for the control of buildings and structures within the city. Each and all of the regulations, provisions, penalties, conditions and terms of the code are hereby referred to, adopted, and made a part of this article as if fully set out in this article, with the additions, insertions, deletions and changes, if any, set forth in section 7-43 of this Code.

(Code 1973, § 23.01; Ord. No. 97-2941, § 1, 10-14-97; Ord. No. 2009-3399, § 1, 6-9-09)

State Law reference— Municipal authority to adopt technical codes by reference, RSMo 67.280.

Sec. 7-42. - Scope; application.

- (a) The regulations of this article shall control all matters concerning the construction, alteration, additions, repair, removal, demolition, use, location, occupancy and maintenance of all buildings, and structures as defined in the 2006 International Building Code and shall apply to existing or proposed

buildings and structures in the city, except as such matters are otherwise provided for in the Charter or its ordinances, state statutes or in the rules or regulations authorized for promulgation under the provisions of this Code.

- (b) The various provisions of this article and the code adopted thereby shall be, when necessary, construed together. Where applicable requirements set out in one part are different from those in one (1) or more of the other parts, the provision which establishes the higher standard for the promotion and protection of the health, safety and welfare of the public shall prevail. When terms are used in one part but not defined therein, the definition of such term which may be found in any other part shall apply and if there is none to be found then the commonly accepted definition shall prevail.
- (c) Provisions dealing with new construction or major structural renovation after the effective date of the ordinance adopting the 2006 International Building Code, shall be as follows:
 - (1) Any new construction or major structural renovation already started may voluntarily comply with the provisions of the 2006 International Building Code.
 - (2) Any new construction or major structural renovation begun after the effective date of the ordinance adopting the 2006 International Building Code, shall comply with the standards for seismic design and construction of the 2006 International Building Code.
 - (3) This subsection shall not apply to any building owned by the state, any institution of higher education, any political subdivision upon which construction was begun or finished before the effective date of this subsection, any private structure with less than ten thousand (10,000) square feet in total area, or any single-family or duplex residence.
 - (4) As used in this subsection, the term "major structural renovation" means any reconstruction, rehabilitation, addition or other improvement of an existing structure, the cost of which equals or exceeds fifty (50) percent of the market value (or the assessed value, if greater) of the structure before the start of construction of the major structural renovation.

(Code 1973, § 23.02; Ord. No. 90-2451, § 1, 12-18-90; Ord. No. 97-2941, § 1, 10-14-97; Ord. No. 2009-3399, § 2, 6-9-09)

Sec. 7-43. - Amendments.

The following sections of the 2006 International Building Code, adopted in section 7-41, are hereby amended, deleted, inserted, or added as indicated below:

The "City of Ferguson" shall be inserted in each location where the name of the jurisdiction is required.

Where a fee schedule is referenced, such schedule shall be the fee schedule as adopted from time to time by the City Council.

Section 105.2 "Work exempt from permit" is hereby amended by (i) deleting the provision "1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11 m²)" and (ii) renumbering the subsequent provisions.

Section 105.2.4 "Small exterior improvements upon issuance of special building permit" is hereby added to read as follows:

"Any owner or authorized agent who intends to construct, install, alter, repair, move, or demolish the following improvements shall obtain a special exterior improvement permit in lieu of the building permit described in this Section 105 and Section 106:

1. Detached accessory structures used as tool and storage sheds, playhouses and similar uses not exceeding 120 square feet;
2. Single level, uncovered exterior deck or porch not exceeding 140 square feet; and
3. Exterior steps related to such small decks and porches.

To obtain a special exterior improvement permit, the applicant shall first file an application therefor in writing on a form furnished by the department of public works for that purpose. Such application shall be accompanied by the appropriate filing fee and shall: (i) identify and describe the work to be covered by the permit for which the application is made; (ii) describe the land on which the proposed work is to be done including a parcel plat; (iii) a clear drawing detailing the proposed improvements; (iv) manufacturers' or suppliers' specifications for the materials, prefabricated elements or other components; (v) be signed by the applicant or the applicant's authorized agent; and (vi) give such other data and information as required by the building official.

Periodic inspections shall be required for all footings, piers, anchors and rough framing. A final inspection shall be required for all such improvements prior to use or occupancy."

Section 108.4 "Work commenced without permit" is hereby added to read as follows:

"When work for which a permit is required by this code is started or proceeded with, prior to obtaining such permit, the fees set out in section 108.2 shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with all of the requirements of this code in the execution of the work not from any other penalties prescribed herein."

Section 109.3 "Required Inspections" is hereby amended to read as follows:

"The building official, upon notification, shall make the inspections set forth in Sections 109.3.1 through 109.3.10. as they apply. The inspections required and their designation shall be indicated on the building permit at the time said inspection fees are paid and the owner or builder shall be responsible for notifying the building official when the building is ready for each inspections designated as required by the building permit at the time the building permit is issued. Any special conditions requiring inspections, known at the time of issuing the permit shall also be set forth on the building permit, as may any special conditions required by the council in approving a special use permit as may have been a condition for the approving of a subdivision plat."

Section 112.3 "Qualifications" is hereby amended to read as follows:

"The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction, hazards of fire, explosions, hazardous conditions, or fire protection systems and are not employees of the jurisdiction."

Section 112.4 "Membership of Board" is hereby added to provide as follows:

"The board of appeals shall consist of five (5) members appointed by the mayor as follows: One (1) for five (5) years, one (1) for four (4) years, one (1) for three (3) years, one (1) for two (2) years and one (1) for one (1) year. Thereafter, each new member shall serve for five (5) years or until a successor has

been appointed. A councilman selected by the council shall attend meetings of the board of appeals and shall have the right of discussion in accordance with the board's rules and regulations, but shall not be entitled to vote."

Section 112.5 "Compensation of Members" is hereby added to read as follows:

"Members of the board of appeals shall receive no compensation for service on such board."

Section 113.4 "Violation Penalties" is hereby amended to read as follows:

"Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this code, shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment in the city jail not exceeding ninety (90) days, or by both such fine and imprisonment."

Section 114.2 "Issuance" is hereby amended to read as follows:

"Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop-work order shall be in writing and delivered to the owner of the property involved, or to the owner's agent, or to the person doing the work; or contractor, and shall state the conditions under which work maybe resumed. Such notice to stop work may be delivered to the person heretofore described either by personal service or by certified mail to such person and notice served in this latter manner shall be effective seventy-two (72) hours after such certified mail is posted, addressed to such person at his or her last-known address. The property shall also be posted with a stop-work order and any person who shall continue to work after the posting of such order shall also be guilty of a misdemeanor and shall be subject to penalty provided in subsection 114.3 of this code as amended, unless the same is authorized to continue with approval of the building official."

Section 114.3 "Unlawful Continuance" is hereby amended to read as follows:

"Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment in the city jail not exceeding ninety (90) days, or by both such fine and imprisonment."

Section 115.1 "Conditions" is hereby amended by the addition of the following provision:

"All window and door openings that have no doors or windows shall be hoarded up with materials approved by the department of public works and painted with a protective coating to blend with the color of the residence."

Section 115.3 "Notice" is hereby amended to read as follows:

"If an unsafe condition is found, the building official shall serve on the owner, agent or person in control of the structure a written notice describing the condition deemed unsafe and specifying the required repairs or improvements to be made to render the unsafe building or structure or portion

thereof to be demolished within a stipulated time. Such notice shall require the person thus notified to immediately declare to the building official his acceptance or rejection of the terms of the order. Failure to so notify the building official within seventy-two (72) hours after the notice becomes effective shall proceed to take such steps as he may deem necessary in case of a verbal or written rejection."

Section 115.4 "Method of Service" is hereby amended to read as follows:

"Such notice shall be deemed properly served if a copy thereof is (a) delivered to the owner personally; (b) sent by certified or registered mail, and notice served in this latter manner shall be effective seventy-two (72) hours after posting of such certified mail addressed to the last known address of such person. Refusal to accept a certified letter by addressee shall constitute notice under these provisions. If the certified or registered letter is returned showing that the letter was not refused or not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner."

Certain subsections of Section 903.2 are amended to read as follows (those subsections not specifically set forth herein are not amended).

[F] 903.2.1.1 Group A-1. An automatic sprinkler system shall be provided for Group A-1 occupancies where one of the following conditions exists:

1. The fire area exceeds 10,000 square feet (1115 m²).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than the level of exit discharge.
4. The fire area contains a multi-theater complex.

[F] 903.2.1.3 Group A-3. An automatic sprinkler system shall be provided for Group A-3 occupancies where one of the following conditions exists:

1. The fire area exceeds 10,000 square feet (1115 m²).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than the level of exit discharge.

Exception: Areas used exclusively as participant sports areas where the main floor area is located at the same level as the level of exit discharge of the main entrance and exit.

[F] 903.2.1.4 Group A-4. An automatic sprinkler system shall be provided for Group A-4 occupancies where one of the following conditions exists:

1. The fire area exceeds 10,000 square feet (1115 m²).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than the level of exit discharge.

Exception: Areas used exclusively as participant sports areas where the main floor area is located at the same level as the level of exit discharge of the main entrance and exit.

[F] 903.2.2 *Group E*. An automatic sprinkler system shall be provided for Group E occupancies as follows:

1. Throughout all Group E fire areas greater than 10,000 square feet (1858 m²) in area.
2. Throughout every portion of educational buildings below the level of exit discharge.

Exception: An automatic sprinkler system is not required in any fire area or area below the level of exit discharge where every classroom throughout the building has at least one exterior exit door at ground level.

[F] 903.2.3 *Group F-1*. An automatic sprinkler system shall be provided throughout all buildings containing a Group F-1 occupancy where one of the following conditions exists:

1. Where a Group F-1 fire area exceeds 10,000 square feet (1115 m²);
2. Where a Group F-1 fire area is located more than three stories above grade plane; or
3. Where the combined area of all Group F-1 fire areas on all floors, including any mezzanines, exceeds 20,000 square feet (2230 m²).

[F] 903.2.6 *Group M*. An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy where one of the following conditions exists:

1. Where a Group M fire area exceeds 10,000 square feet (1115 m²);
2. Where a Group M fire area is located more than three stories above grade plane; or
3. Where the combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 20,000 square feet (2230 m²).

[F] 903.2.8 *Group S-1*. An automatic sprinkler system shall be provided throughout all buildings containing a Group S-1 occupancy where one of the following conditions exists:

1. A Group S-1 fire area exceeds 10,000 square feet (1115 m²);
2. A Group S-1 fire area is located more than three stories above grade plane; or
3. The combined area of all Group S-1 fire areas on all floors, including any mezzanines, exceeds 20,000 square feet (2230 m²).

Section 903.4.2 "Alarms" shall be amended to read as follows:

"Alarm devices shall be provided on the exterior of the building in an approved location and in every tenant space inside the building if it does not have a fire alarm system."

Section 1026.4 "Operational Constraints" is hereby amended to read as follows:

"Emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grills, or heavy mesh screens (but not insect screens) are prohibited from being placed over the interior of doors or windows unless such bars, grills, or screens shall be releasable or removable from the inside without the use of a key, tool, or force greater than that which is required for normal operation of the window. Bars, grills, and heavy mesh screens (but not insect screens) are prohibited from being placed on the exterior side of all windows and doors on residences.

Exceptions

1. The minimum net clear opening for grade floor windows shall be five (5) square feet (0.47 m²).
2. An outside window or an exterior door for emergency escape is not required in buildings where the sleeping room is provided with a door to a corridor having access to two (2) remote exits in opposite directions.
3. An outside window or an exterior door for emergency escape is not required in buildings equipped throughout with an automatic sprinkler system in accordance with section 906.2.1 or 906.2.2."

Section 1608.2 "Local snow loads" is hereby added to provide as follows:

"For purposes of this code, the ground snow load *(Pg) shall be twenty (20) pounds per square foot (psf)."

Section 1805.2.1.1 "Local frost depth" is hereby added to read as follows:

"For purposes of this code, the frost depth shall be thirty (30) inches below grade."

(Code 1973, §§ 23.03, 23.04; Ord. No. 85-2084, § 1, 6-11-85; Ord. No. 85-2113, § 1, 11-26-85; Ord. No. 86-2130, § 1, 3-25-86; Ord. No. 86-2131, § 1, 3-25-86; Ord. No. 86-2176, § 1, 10-28-86; Ord. No. 88-2270, § 1, 3-8-88; Ord. No. 89-2378, § 1, 8-29-89; Ord. No. 90-2401, § 1, 2-27-90; Ord. No. 93-2631, § 1, 5-25-93; Ord. No. 97-2941, § 1, 10-14-97; Ord. No. 2001-3125, § 1, 6-26-01; Ord. No. 2009-3399, § 3, 6-9-09; Ord. No. 2012-3485, § 1, 3-27-12)

Sec. 7-44. - Additional requirements for the design and construction of new and remodeled homes and buildings.

(a) *Purpose.* The purpose of the requirements set forth herein is to provide for the enhancement of sustainable energy and environmentally friendly efforts during building construction. It is further the intent of the city council to ensure that the development of public buildings is done in an environmentally friendly manner as well as to encourage environmentally conscious private commercial, industrial and residential development. The program shall be mandatory for the development of all city-owned construction projects, and is encouraged for all private commercial, industrial and residential development projects.

(b) *Definitions.* For purposes of this section, the following terms shall mean:

Construction means any project associated with the creation, development, or erection of any building or facility that is five thousand (5,000) square feet of floor area or greater.

Green building means generally the resource efficient design, construction, and operation of buildings by employing environmentally sensible construction practices, systems, and materials.

LEED means the Leadership in Energy and Environmental Design Rating System of the U.S. Green Building Council.

LEED for existing buildings means the USGBC rating system that applies to existing buildings and addresses whole-building cleaning and maintenance issues (including chemical use), recycling programs, exterior maintenance programs, and systems upgrades.

Project means any construction associated with the creation, development, or erection of any building or facility.

Remodeling means any renovation or remodeling project (commercial or residential) that includes a total cost greater than fifty-one (51) percent of the appraised value of the property.

USGBC means the U.S. Green Building Council.

(c) *City-owned construction projects.*

- (1) Any buildings built or remodeled with city funds shall be developed in accordance with, at a minimum, the LEED "silver" certification designation or another nationally-recognized certification program., as long as the estimated energy savings exceed the marginal cost of the energy saving features over the expected life of the building and subject to fiscal constraints established by the city manager. On a project-by-project basis, the city manager may determine that the costs or requirements associated with participating in the program substantially outweigh the benefits of such participation. Such a determination shall amount to a waiver of the requirement that city comply with the provisions of this chapter. In order to avoid increased cost of operation, care shall be taken to avoid complex systems that would require extensive technical training of personnel.
- (2) Design documents shall include an explanation of how the features listed below are incorporated into the design or, for those features not incorporated, an explanation of the financial or operational reasons why the feature was omitted from the design. Energy saving features, including but not limited to the following:
 - a. Solar orientation, with the long axis facing south.
 - b. Use of daylighting.
 - c. Use of appropriate glass for minimizing heating and cooling loads.
 - d. Insulation beyond minimum standards.
 - e. Use of renewable energy for heating and cooling.
 - f. Use of renewable energy for heating and swimming pools.
 - g. Use of water conservation measures including dual water systems if available.
 - h. Landscaping for summer cooling effect and for blocking winter winds.
 - i. Use of energy efficient motors.
 - j. Use of energy efficient lighting.
 - k. Use of energy management systems.
 - l. Parking areas designed to limit heat absorption.
 - m. Use of building materials and color to decrease cooling load.

(d) *Private construction projects.*

- (1) *New residentially permitted projects.* The permit applicant for new residential construction, shall be encouraged to satisfy the requirements associated with the current USGBC LEED for homes program, as may be amended from time to time; or a nationally-recognized equivalent ratings system.
- (2) *Remodeling of existing homes.* The permit applicant for remodeling of existing homes shall be encouraged to satisfy the requirements of remodeling certification for the current LEED for homes program, as may be amended from time to time; or a nationally-recognized equivalent ratings system.

(3)

New commercial or industrial buildings. The permit applicant for new commercial or industrial buildings construction shall be encouraged to satisfy the requirements associated with the current LEED for new construction or derived USGBC LEED rating system (e.g., LEED for schools, LEED for health care) program, as may be amended from time to time; or a nationally-recognized equivalent ratings system.

- (4) *Remodeling of existing commercial and industrial buildings.* The permit applicant for the remodeling of existing commercial and industrial buildings shall be encouraged to satisfy the requirements associated with the current LEED for existing buildings or derived USGBC LEED rating system (e.g., LEED for schools, LEED for health care) program, as may be amended from time to time; or a nationally-recognized equivalent ratings system.
- (5) *Incentives.* Permit applications submitted pursuant to this Section shall be given priority over other permit applications. The city shall use its best efforts to ensure that building permit applications for residential and commercial green buildings shall be processed within thirty (30) business days. All such applications shall be accompanied by an appropriate green building program application form.
- (6) *Certification.* The verification of the green building designation shall be subject to certification by a qualified third party who has been trained and certified as a green building certifying agent. Applicants shall be responsible for all costs associated with certification.

(Ord. No. 2009-3382, § 4, 2-24-09)

Secs. 7-45—7-60. - Reserved.

ARTICLE IV. - ELECTRICAL CODE^[4]

Footnotes:

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Cross reference— *Utilities generally, Ch. 45.*

DIVISION 1. - GENERALLY

Sec. 7-61. - Adoption of National Electrical Code.

The National Electrical Code, 1996 Edition, as published by the National Fire Protection Association, is hereby adopted as the electrical code of the city for the control of buildings and structures within the city. Each and all of the regulations, provisions, penalties, conditions and terms of the code are hereby adopted by reference and made a part of this article as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed herein. Three (3) copies of the electrical code are on file in the office of the city clerk.

(Ord. No. 97-2882, § 1, 1-14-97)

Cross reference— Adoption of national electrical safety code, § 45-32.

State Law reference— Municipal authority to adopt technical codes by reference, RSMo 67.280.

Sec. 7-61.1. - Title.

Throughout the 1996 National Electrical Code, wherever the terms "name of jurisdiction" or "local jurisdiction" appears, it shall mean the City of Ferguson, Missouri. Wherever the term "code" appears, it shall mean the 1996 National Electrical Code.

(Ord. No. 97-2882, § 1, 1-14-97)

Sec. 7-62. - Conflicting provisions.

Any provisions of the National Electrical Code, 1996, adopted by section 7-61, which are in conflict with sections 7-61 through 7-87 are repealed insofar as they may be in conflict with any of such sections.

(Ord. No. 97-2882, § 1, 1-14-97)

Sec. 7-63. - Enforcement official; inspectors.

The code official shall be the director of public works and shall be the person vested with executive authority to see that all provisions of this article are carried out. The code official may appoint, with the approval of the city manager, such inspectors as from time to time are necessary to enforce provisions of this code.

(Ord. No. 97-2882, § 1, 1-14-97)

Sec. 7-63.1. - Notices and orders.

The code official shall issue all necessary notices or orders to ensure compliance with this code.

(Ord. No. 97-2882, § 1, 1-14-97)

Sec. 7-64. - Permit.

- (a) *Required.* No person shall begin any work of installing, erecting or altering material, wiring, fixtures or other apparatus to be used or in use for generation, transmission and utilization of electricity for light, heat and power in and on buildings and premises in the city without a permit therefor.
- (b) *Application.* Application for such permit shall be filed in the office of the code official at least twenty-four (24) hours before such work shall be commenced. The application shall describe in detail the nature of such work and shall give the location thereof by street and number and shall bear the date of beginning of such work and the tentative date of completion thereof.
- (c) *Emergencies.* In the event of an emergency, work may be begun by securing permission from the office of the code official upon condition that written application be filed without delay.
- (d) *Transferability.* No permit issued under the provisions of these regulations shall be assignable or transferable or be used to aid or abet any unlicensed person in the performance of electrical work.

(Ord. No. 97-2882, § 1, 1-14-97; Ord. No. 2001-3125, § 1, 6-26-01)

Sec. 7-65. - Inspections.

Upon completion of any electrical installation for which a permit has been issued, the permittee shall notify the office of the code official and a final inspection shall be made. The code official or his inspector shall cause to be made as many interim inspections as he deems necessary. No part of the electrical installation shall be covered or concealed until inspected.

(Ord. No. 97-2882, § 1, 1-14-97)

Sec. 7-66. - Fees.

- (a) Inspection of buildings and premises where electrical installations and maintenance are made under electrical contractor's license, electrical maintenance license, electrical industrial license, or electrical communication contractor's license, or under a homeowner's permit, shall be made in accordance

with a schedule to be established by the code official. Permit and inspection fees shall be paid to the code official as set forth in the following table. The code official shall forthwith pay such fees over to the director of finance, to the credit of the general fund of the city.

Schedule of permit and inspection fees

Rough-in inspection\$50.00

Final inspection50.00

Reinspection fee50.00

Service up to and including 200 ampere50.00

Service over 200 ampere50.00

Service over 400 ampere and up to 600 ampere70.00

Service over 600 ampere90.00

Sockets and receptacles1.00

Air conditioners, each15.00

Appliances, each15.00

Communications, each15.00

Heating equipment, each15.00

Burglar alarm40.00

Miscellaneous15.00

(b) Reinspection of buildings on which service has been disconnected shall be paid at the rate of fifteen dollars (\$15.00) per hour or fraction thereof. Service shall be considered as disconnected when the meter or service wires have been removed or in commercial installation when a change in tenancy has taken place or residential installations which may not have been in use for a period of three (3) months. This does not apply to discontinuance of service by company pending payment of delinquent bills.

(c) For inspection of all installations of electrical work made upon request of the owner and issuance of certificates thereon, the time of inspection shall be paid for as follows:

First hour or fraction thereof\$15.00

Each additional hour or fraction thereof7.50

(Ord. No. 97-2882, § 1, 1-14-97; Ord. No. 99-3047, § 1, 9-28-99; Ord. No. 2001-3125, § 1, 6-26-01)

Sec. 7-67. - Contract with county.

The city manager, upon confirmation by the council may contract with the county to provide electrical inspection service for the city and to issue, collect for, and disburse receipts to the city for electrical permits and inspections. Such contract may provide for disbursement to the city of an agreed upon portion of all permit and inspection fees collected by the county under the contract. If the city shall contract with the county to provide electrical inspection service, the applicant shall pay fees charged by the county and not those provided in this article.

(Ord. No. 97-2882, § 1, 1-14-97)

Sec. 7-68. - Appeals.

Whenever the code official shall reject or refuse to approve the mode or manner of electrical installation proposed to be followed, or materials proposed to be used, or whenever any person shall feel aggrieved by any ruling of the code official, such person may appeal from the code official to the building board of appeals established in the Building Code, Section 121, Means of Appeal.

(Ord. No. 97-2882, § 1, 1-14-97)

Secs. 7-69—7-80. - Reserved.

DIVISION 2. - LICENSES

Sec. 7-81. - Required.

No person shall engage in the business of making or maintaining electrical installation nor shall any person thereof install any electrical material, apparatus or equipment of any kind without first having been examined and licensed by the building commission of the county, except as provided in section 7-86.

(Ord. No. 97-2882, § 1, 1-14-97)

Sec. 7-82. - Electrical contractor's license.

An electrical contractor's license shall permit any person, firm or corporation to engage in the work of installing, erecting, maintaining electrical wiring, fixtures, apparatus, equipment, devices or components thereof that are used for generation, transmission, and utilization of electricity in and on buildings and premises in the city.

(Ord. No. 97-2882, § 1, 1-14-97)

Sec. 7-83. - Electrical maintenance license.

An electrical maintenance license shall permit any person, firm or corporation to engage in the work which is necessary for the upkeep or maintenance of existing electrical material and equipment on their own property and occupied by them. However, to qualify for an electrical maintenance license in or on any building or premises, there must be at least one full-time electrician employed continuously.

(Ord. No. 97-2882, § 1, 1-14-97)

Sec. 7-84. - Electrical industrial license.

An electrical industrial license shall permit any person, firm or corporation to engage in the work of installing, erecting, maintaining electrical wiring, fixtures, apparatus, equipment, devices or components thereof that are used for generation, transmission, and utilization of electricity in and on buildings and premises occupied by the licensee in the city. To qualify for an electrical industrial license there must be industrial or commercial property involved and at least one full-time electrician employed continuously.

(Ord. No. 97-2882, § 1, 1-14-97)

Sec. 7-85. - Electrical communication contractor's license.

An electrical communication contractor's license shall permit any person, firm or corporation to engage in the work of installing, maintaining, erecting or altering communication equipment, including cable television, within the city.

(Ord. No. 97-2882, § 1, 1-14-97)

Sec. 7-86. - Homeowners.

Homeowners may be allowed, without requirement for a license, to install, erect and maintain electric wiring, fixtures, apparatus, equipment, devices and components used for the transmission and utilization of electricity only, subject to all inspections and inspection fees, and the approval thereof as set forth in section 7-65. This section applies to a single-family residence (owner occupied).

(Ord. No. 97-2882, § 1, 1-14-97)

Sec. 7-87. - Use of licensee's name by another.

No person having obtained a license under the provisions of this article shall allow his name to be used by another person, either for the purpose of obtaining permits or for doing business or work under the license. Every person licensed shall notify the office of the code official of the address of his place of business and the name under which such business is carried on, and shall give immediate notice to the office of the code official of any change in either.

(Ord. No. 97-2882, § 1, 1-14-97)

Secs. 7-88—7-100. - Reserved.

ARTICLE V. - PLUMBING CODE^[5]

Footnotes:

— (5) —

Editor's note—Section 1 of Ord. No. 99-3038, adopted Aug. 24, 1999, repealed Art. V in its entirety and enacted similar provisions to read as herein set out. Former Art. V derived from the 1973 Code §§ 25.01—25.12 and 25.14.

Cross reference— Utilities generally, Ch. 45; sewers, § 45-11 et seq.

State Law reference— Plumbers and plumbing, RSMo Ch. 341.

Sec. 7-101. - Adoption of the 1997 edition of the International Plumbing Code.

The 1997 Edition of the International Plumbing Code, regulating and controlling the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems in the City of Ferguson; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, conditions, and terms of such International Plumbing Code, 1997 Edition, published by the International Code Council, on file in the office of the city clerk of the City of Ferguson, are hereby referred to, adopted, and made a part hereof as if fully set out in this article. This adoption is subject to the deletions, additions, insertions, and changes, if any, in section 7-103. Three (3) copies of the plumbing code are on file in the office of the city clerk.

(Ord. No. 99-3038, § 1, 8-24-99)

State Law reference— Municipal authority to adopt technical codes by reference, RSMo 67.280.

Sec. 7-102. - Scope; application.

- (a) The regulations of this article shall control all matters concerning all buildings and structures and their plumbing as defined in the 1997 Edition of the International Plumbing Code and shall apply to all existing or proposed buildings and structures in the city, except as such matters are otherwise

provided for in the Charter of the city's ordinances, in the state statutes, or in the rules or regulations authorized for promulgation under the provisions of this Code.

- (b) The provisions of this article and the provisions adopted thereby shall be, when necessary, construed together. Where applicable requirements set out in one (1) part are different from those in one (1) or more of the other parts, the provisions which establish the higher standard for the promotion and protection of the health, safety, and welfare of the public shall prevail. When terms are used in one (1) part, but not defined therein, the definition of such terms which may be found in any other part shall apply and if none there be found, then the commonly accepted definition shall prevail.

(Ord. No. 99-3038, § 1, 8-24-99)

Sec. 7-103. - Amendments.

The following sections of the 1997 edition of the International Plumbing Code, adopted in section 7-101, are hereby amended, deleted or added as indicated below:

Section 101.1. Title is hereby amended by inserting in the space provided the following, "the City of Ferguson, Missouri".

Section 103.1. General is hereby deleted and in its place a new section is inserted as follows:

"The Department of Code Inspection is hereby created and the Director of Public Works shall be in charge thereof and shall be known as the Code Official."

Section 106.5.2. Fee Schedule. The permit fees for all plumbing work shall be as indicated in the following schedule:

SCHEDULE

Sewer repair	\$50.00
Fixture, each	10.00
Water heaters, residential, each	25.00
Water heaters, commercial, each	50.00
Water service, each	50.00

Investigations, each	50.00
Rough inspections, each	50.00
Finish inspections, each	50.00
Miscellaneous inspections, each	50.00
Permit fee, each	50.00
Sanitary sewer, linear foot (50 linear feet minimum)	0.50
Storm sewer, linear foot (50 linear feet minimum)	0.50
Replace stack	50.00
License fee	50.00
New sprinkler system	50.00
Re-inspection	50.00
Hourly fee, per hour, for plan review	50.00

where no other fee applies (¼ hour minimum)	
Grading permit	40.00

Charges for restoration and resurfacing streets, sidewalks, etc. where excavation in the street, sidewalk, or tree lawn is necessary for sewer and water repairs or connections; the charges for an excavation permit shall be as follows:

Location	Two square yards	Each additional square yard or fraction of sq. yd.
Tree lawn dirt	\$10.00	\$ 5.00
Unpaved streets per city specifications	30.00	5.00
Paved street, concrete or asphalt	50.00	25.00
Sidewalks	54.00	10.00

Section 106.5.3. is hereby amended by inserting "fifty per cent (50%)" in each of the two (2) spaces provided.

Section 108.4. Penalties is hereby amended by inserting "offense, one thousand dollars (\$1,000.00)" and "four (4) months" in the spaces provided.

Section 108.5. is hereby amended by inserting "One Thousand Dollars (\$1,000.00)" in each of the two blank spaces.

Section 305.6.1 is amended by inserting "thirty inches (30")" in each of the two (2) blank spaces.

Section 904.1 is amended by inserting "twelve inches (12")" in the blank space.

(Ord. No. 99-3038, § 1, 8-24-99; Ord. No. 2001-3125, § 1, 6-26-01)

Secs. 7-104—7-115. - Reserved.

ARTICLE VI. - MECHANICAL CODE

Sec. 7-116. - Adoption of 1996 Edition of the International Mechanical Code.

The 1996 Edition of the International Mechanical Code, including all attached appendices except appendix B Recommended Permit Fee Schedule, as published by the International Code Council, is hereby adopted as the mechanical code of the city for the control of buildings and structures within the city, and for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems in the City of Ferguson and providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, conditions, and terms of such International Mechanical Code, 1996 Edition, published by the International Code Council, on file in the office of the city clerk of the City of Ferguson, are hereby referred to, adopted and made a part hereof as if fully set out in this article. This adoption is subject to the deletions, additions, insertions, and changes, if any, in section 7-118. Three (3) copies of the mechanical code are on file in the office of the city clerk.

(Code 1973, § 23.01; Ord. No. 99-3032, § 1, 6-8-99)

State Law reference— Municipal authority to adopt mechanical codes by reference, RSMo 67.280.

Sec. 7-117. - Scope; application.

- (a) The regulations of this article shall control all matters concerning all buildings and structures and their service equipment as defined in the 1996 Edition of the International Mechanical Code and shall apply to all existing or proposed buildings and structures in the city, except as such matters are otherwise provided for in the Charter or the city's ordinances, in the state statutes, or in the rules or regulations authorized for promulgation under the provisions of this Code.
- (b) The provisions of this article and the provisions adopted thereby shall be, when necessary, construed together. Where applicable, requirements set out in one (1) part are different from those in one (1) or more of the other parts, the provisions which establish the higher standard for the promotion and protection of the health, safety, and welfare of the public shall prevail. When terms are used in one (1) part but not defined therein, the definition of such terms which may be found in any other part shall apply and if none there be found, then the commonly accepted definition shall prevail.

(Code 1973, § 23.02; Ord. No. 99-3032, § 1, 6-8-99)

Sec. 7-118. - Amendments.

The following sections of the 1996 Edition of the International Mechanical Code, adopted in section 7-116, are hereby amended, deleted or added as indicated below:

Section 101.1 Title is hereby amended by inserting in the space provided the following:

"the City of Ferguson, Missouri"

Section 103. The title of said section shall be changed from "Department of Mechanical Inspection" to "Department of Code Inspection."

Section 103.1 General is to be deleted, and in its place a new section inserted as follows:

"The Department of Code Inspections is hereby created and the Director of Public Works in charge thereof shall be known as the Code Official."

Section 106.5.2 Periodic inspections is hereby amended to read as follows:

"*Periodic inspections.* The fees for all periodic inspections shall be as indicated in the following schedule:

Inspection Fee

Type Of Equipment Or Device Per Unit

Air handlers	\$50.00
Air conditioning	50.00
Auto lifts	50.00
Boilers	50.00
Conveyors	50.00
Dumbwaiters	50.00
Elevators	50.00
Emergency generator	50.00
Escalators	50.00
Fan (ventilation)	50.00
Blower (ventilation)	50.00
Water heaters	50.00
Storage tanks	50.00
Hoists	50.00
Incinerators	50.00
Kitchen exhaust (over 5,000 CPM)	50.00
Unfired pressure vessels, with manhole	10.00
Refrigeration	50.00
Miscellaneous hoisting equipment	50.00

Section 106.5.2.1 Permit Fee Schedule. The fees for permits for mechanical work shall be indicated in the following schedule:

Inspection Fee

Type Of Equipment Or Device Per Unit

Air handlers	\$50.00
Air conditioning	50.00
Auto lifts	50.00
Boilers	50.00
Conveyors	50.00
Dumbwaiters	50.00
Elevators	50.00
Emergency generator	50.00
Escalators	50.00
Fan (ventilation)	50.00
Blower (ventilation)	50.00
Water heaters	50.00
Storage tanks	50.00
Hoists	50.00
Incinerators	50.00
Kitchen exhaust (over 5,000 CPM)	50.00
Unfired pressure vessels	50.00
Refrigeration	50.00
Residential furnace unit	50.00
Miscellaneous hoisting equipment	50.00

Section 106.5.3 is hereby amended by inserting "fifty per cent (50%)" in each of the two (2) spaces provided.

Section 108.4 Penalties is hereby amended by inserting "Offense, one thousand dollars (\$1,000.00)" and "four (4) months" in the spaces provided.

Section 108.5 is hereby amended by inserting "one thousand dollars (\$1,000.00)" in each of the two (2) blank spaces.

(Code 1973, §§ 23.11, 23.12, 23.15—23.18; Ord. No. 99-3032, § 1, 6-8-99; Ord. No. 2000-3075, § 1, 3-28-2000; Ord. No. 2001-3125, § 1, 6-26-01)

Sec. 7-119. - Reserved.

ARTICLE VII. - EXISTING RESIDENTIAL BUILDINGS

DIVISION 1. - MINIMUM HOUSING STANDARDS

Sec. 7-120. - Minimum standards for dwellings and dwelling units.

- (a) *Foundation, exterior walls and roofs.* The foundation, exterior walls and roof shall be substantially watertight, weather-tight, and protected against rodents and shall be kept in sound condition and repair. The foundation elements shall adequately support the building at all points. Every exterior wall shall be maintained in a sound condition or repair and shall be free of any other condition which admits rain or dampness to the interior portions of the building. All exterior surface material must be treated, painted in a workmanlike manner, or otherwise maintained in a sound condition. Roof drainage shall be adequate to prevent rain water from causing dampness in the walls. Roof of all buildings shall be either of tile, of slate or of built-up, fire-proof, sealed-down shingles which are rated Class "A" with a twenty-five (25) year guarantee. All cornices, rustications, quoins, moldings, belt courses, lintels, sills, oriel windows, pediments, gutters and similar projections shall be kept in good repair and free from defects which make them hazardous and dangerous.
- (b) *Floors, interior walls and ceilings.* Every floor, interior wall, and ceiling shall be adequately protected against the passage and harborage of vermin and rodents, and every floor, interior wall, ceiling and air infiltration shall be kept in sound condition and good repair. Every floor shall be securely attached and free of tears, trip hazards, and loose, warped, protruding or rotting floor boards. Every interior wall and ceiling shall be free of large cracks and holes, and shall be free of loose plaster or other structural or surface materials. Every toilet room and bathroom floor surface shall be substantially impervious to water and be capable of being maintained easily in a clean and sanitary condition. Toxic paint and materials shall not be used where readily accessible to children.
- (c) *Windows, doors, and hatchways.* Every window, exterior door, and basement hatchway shall be substantially tight, and shall be kept in sound condition and repair. Every window shall be fully supplied with window panes which are without cracks or holes. Every window sash shall be in good condition and fit reasonably tight within its frame. Every window, other than a fixed window, shall be capable of being easily opened and shall be held in position by window hardware. Every exterior door, door hinge, and door latch shall be in good condition. The lowest level of every exterior doorway shall be no more than ten (10) inches from the level of the adjoining ground or no more than ten (10) inches from the first tread of an adjoining stairway which shall provide direct access to ground level. Every exterior door, when closed, shall fit reasonably well within its frame. Every window, door and frame shall be constructed and maintained in such relation to the adjacent wall construction as to completely exclude rain, and substantially to exclude wind from entering the dwelling. Every basement hatchway and window shall be so constructed, screened or maintained as to prevent the entrance of rodents, rain, and surface drainage water into the building.
- (d) *Exterior appurtenances.* Exterior appurtenances including but not limited to screens, awnings, trellises, antennae, cable or satellite dish, storm windows and storm doors shall be installed in a safe and secure manner and shall be maintained in sound condition.
- (e) *Stairway and porches.* Every stairway, inside or outside of the dwelling, and every porch, shall be kept in safe condition and sound repair. Every flight of stairs and every porch floor shall be free of deterioration. Every stairwell and every flight of stairs which is more than four (4) risers high shall have a rail not less than two and one-half (2½) feet high, measured vertically from the nose of the tread to the top of the rail; and every porch which is more than four (4) risers high shall have a rail not less than two and one-half (2½) feet above the floor of the porch. Every rail and balustrade shall be firmly fastened and maintained in good condition. No flight of stairs shall have settled more than one

(1) inch out of its intended position or have pulled away from supporting or adjacent structures. No flight of stairs shall have rotting, loose, or deteriorating supports. The treads and risers of every flight of stairs shall be uniform in width and height. Every stair tread shall be strong enough to bear a concentrated load of at least four hundred (400) pounds. All stairways used for egress shall have a minimum of six (6) feet four (4) inches height clearance. Every porch shall have a sound floor. No porch shall have rotting, loose, or deteriorating supports.

- (f) *Basements and garden levels.* Every basement and garden level shall be maintained in a safe and sanitary condition. Water shall not be permitted to accumulate or stand on the floor. All sewer conditions shall be properly trapped. All slab drains shall be covered with grating. Junk, rubbish and waste shall not be permitted to accumulate to such an extent as to create fire hazard, to be a nuisance or to endanger health or safety.
- (g) *Facilities, equipment and chimneys.* Every supplied facility, fixture, system, piece of equipment or utility, and every chimney flue shall be maintained in a safe, sound and sanitary working condition.
- (h) *Driveways.* Driveways shall be paved and maintained in good repair free of safety hazards.
- (i) *Yards.* All areas which are not covered by lawn or vegetation shall be treated to prevent dust or the blowing or scattering of dust particles into the air. All trees, bushes or vegetation which overhang a public thoroughfare shall be properly trimmed to avoid obstruction of the view and movements of vehicles and pedestrians. Hazardous dead trees and shrubs shall be promptly removed.
- (j) *Infestation.* Each dwelling and all exterior appurtenances on the premises shall be adequately protected against insects, rats, mice, termites, and other vermin infestation. Building defects which permit the entrance of insects, rats, mice, termites, and other vermin shall be corrected.
- (k) *Egress.* Every dwelling unit shall have a safe and unobstructed means of egress leading to a safe, open space outside at the ground level. Passage through such exits shall not lead through any other dwelling unit. The main means of egress from each inhabitable room shall be a minimum of six (6) feet four (4) inches in height for adequate clearance. Dwellings with two (2) or more inhabitable floors shall require two (2) means of egress. An inhabitable basement shall require two (2) means of egress—One being the entry door and the other being any window with unobstructed access with a minimum dimension of 30" × 40" with a finished sill height of no more than forty-four (44) inches above the floor. Every door available as an exit shall be capable of being opened from the inside easily and without the use of a key.

(Ord. No. 2006-3257, § 2, 1-24-06)

Sec. 7-121. - Illumination.

- (a) *Public halls.* All habitable rooms, passageways and stairways shall be provided with electrical fixtures so that they can be adequately lighted at night. A minimum of five (5) foot candles of daylight or artificial illumination shall be required at all times in all public halls.
- (b) *Natural lighting.* All habitable rooms shall be provided with a means of transmitting natural light from outside with the following requirements:
 - (1) *Window area.* Every habitable room shall have at least one window or skylight of approved size facing directly to the outdoors except in kitchens where artificial light may be provided in accordance with the provisions of the building code. The minimum total window area, measured between stops, for every habitable room shall be at least five (5) percent of the floor area of such room, and not less than five (5) square feet. Whenever walls or other portions of a structure face a window or any room and such obstructions are located less than five (5) feet from the window

and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area for the room.

- (2) *Windows leading to porches.* Whenever the natural light area opening from a habitable room is to be an enclosed porch, such area shall not be counted as a required light area unless the enclosed porch has a natural light area of at least thirty (30) percent of the floor area of the room in question.

(Ord. No. 2006-3257, § 2, 1-24-06)

Sec. 7-122. - Electrical service.

- (a) *Generally.* All dwellings and dwelling units shall be adequately and safely provided with an electrical system in compliance with the requirements of the electrical code and providing a minimum service requirement of 100 AMP/240 Volts.
- (b) *Deficient electrical system.* An electrical system shall be considered deficient or hazardous for the following reasons: inadequate service, improper fusing, improper or inadequate grounding of the system, insufficient outlets, improper wiring or installation, deterioration or damage, flush or semi-flush mounted floor convenience outlets without an approved water-proof cover, extension cords for other than short term, temporary use, conductor supported pendant switches or conductor supported light fixtures, loose or hanging wires, frayed or bare wires, grounded-type convenience outlets that are inadequately grounded, and for other reasons based on accepted engineering practice standards.
- (c) *Minimum requirements.* The following shall be considered as absolute minimum requirements: (conditions such as size of the dwelling unit and usage of appliances and equipment within the unit shall be used as the basis for requiring additional electrical works)
 - (1) *Number of electrical outlets.* Every habitable room shall contain one (1) electrical outlet for every twenty (20) linear feet of wall. Every kitchen shall be provided with at least three (3) separate and remote wall-type electric convenience outlets one (1) of which may be a ceiling or wall-type electric light fixture. Every laundry area and bathroom shall contain at least one (1) grounded-type convenience outlet.
 - (2) *Good working order.* Every outlet and fixture shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to the source of electric power in a safe manner.

(Ord. No. 2006-3257, § 2, 1-24-06)

Sec. 7-123. - Water facilities.

- (a) *Bathrooms.* Every dwelling unit shall contain a room which affords privacy to a person within said room and which is equipped with a flush water closet, lavatory basin and bathtub or shower, all of which are in good working condition and are properly connected to hot and cold water lines and to an approved water and sewer system.
- (b) *Kitchen sink.* Every dwelling unit shall contain a kitchen sink, trap and faucet apart from the lavatory basin required which is in good repair, and in working condition, properly connected to hot and cold water lines and to an approved water and sewer system.
- (c) *Water heating facilities.* Every dwelling unit shall have supplied water heating facilities which are properly installed and are maintained in safe and good working condition, capable of heating water to a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink,

lavatory basin, bathtub or shower at a temperature of not less than one hundred twenty degrees (120°F).

- (d) *Plumbing fixtures.* Every dwelling or dwelling unit shall have water lines, plumbing fixtures, vents, and drains which are properly installed, connected and maintained in working order and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which they are designed.

(Ord. No. 2006-3257, § 2, 1-24-06)

Sec. 7-124. - Heating facilities.

- (a) *[Heating capabilities.]* Every dwelling or dwelling unit shall have heating facilities which are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments within its walls to a temperature of at least seventy degrees (70°F) when the outside temperature is ten degrees below zero (-10°F), and a temperature of at least sixty degrees (60°F) when the outside temperature is less than ten degrees below zero (-10°F).
- (b) *Prohibited equipment.* Gas appliances designed primarily for cooking or water heating purposes shall not be considered as heating facilities within the meaning of this Section. Portable heating equipment employing a flame and the use of liquid fuels or coal is prohibited.
- (c) *Good working condition.* All heating facilities shall be properly installed, safely maintained and in good working condition.
- (d) *Prohibited fuel.* The following fuels may not be used as a fuel for use in appliances for heating, cooking, refrigeration, or water heating: liquified petroleum gas "LP gas" and "LPG", propane propylene, butane, iso-butane, butylene gasoline or kerosene.

(Ord. No. 2006-3257, § 2, 1-24-06)

Sec. 7-125. - Ventilation.

- (a) *[Habitable rooms.]* Every habitable room shall have natural ventilation or a mechanical ventilation system adequate for the purpose for which the room is used.
- (b) *Toilet rooms, bathrooms, and kitchens.* Every toilet room, bathroom and kitchen shall have adequate ventilation which may be either an openable window with an openable area of five (5) percent of the floor area, mechanical ventilation, or a gravity vent flue constructed with incombustible material leading to the roof of the building or a combination of any of these. The gravity vent shall be computed at an aggregate clear area of not less than five (5) percent of the floor area of the room with a minimum area of at least one hundred twenty (120) square inches. Gravity vents shall be provided with a weather cap, directional vane or rotary type ventilation on the roof. Adequate ventilation shall be deemed to a system maintained in a safe and good working condition which provides a complete change of air for the bathroom or water closet compartment every fifteen (15) minutes.

(Ord. No. 2006-3257, § 2, 1-24-06)

Sec. 7-126. - Accessory structures.

Obstruction or disrepair not permitted. Accessory structures (including, but not limited to porches, terraces, entrance platforms, garages, driveways, carports, walls, fences, and miscellaneous sheds) shall not obstruct light and air of doors and windows of any dwelling unit, or obstruct a safe means of access to any dwelling unit or create fire and safety hazards or provide rat or vermin harborage. Accessory structures shall be functional and shall be maintained in a state of good repair and alignment. All structures must have vermin-proof floors.

(Ord. No. 2006-3257, § 2, 1-24-06)

Secs. 7-127—7-130. - Reserved.

DIVISION 2. - EXTERIOR APPEARANCE^[6]

Footnotes:

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Editor's note—Ord. No. 2006-3257, § 1, adopted Jan. 24, 2006, renumbered art. VII, div. 1, as art. VII, div. 2.

Sec. 7-131. - Purposes of article.

The general purpose of this article is to protect the public health, safety and the general welfare of the people of the city. These general objectives include, among others, the following specific purposes:

- (1) To protect the character and stability of residential areas within the city.
- (2) To provide minimum exterior standards for the maintenance of existing residential buildings and residential grounds and to thus prohibit the spread of slums and blight.
- (3) To provide minimum space requirements for all residential buildings as defined in this article.
- (4) To thus preserve the taxable value of land and buildings throughout the city.

(Ord. No. 85-2118, § 1, 12-17-85; Ord. No. 87-2244, § 1, 12-8-87)

Sec. 7-132. - Definitions.

Accessory structure shall mean a detached structure subordinate to the main or principal structure and located on the same lot, the use of which is customary to the main building.

Residential building shall mean a residential structure designed for occupancy by one (1) or more families.

Square footage does not include unfinished attics, basements and garages, which shall not be considered as living area for purposes of this section.

Structure shall mean that which is built or constructed.

(Ord. No. 85-2118, § 1, 12-17-85)

Sec. 7-133. - Minimum standards—Residential buildings or structures.

- (a) *Street numbers.* Each structure to which a street number has been assigned shall be displayed in a position easily observed and readable from the public right-of-way. All numbers shall be in Arabic figures or in English language script and shall meet the size and location requirements of the city's building code and fire code.
- (b) *Structural members.* All supporting structural members of all structures shall be kept structurally sound, free of deterioration and maintained so that they are capable of bearing the dead and live loads imposed upon them.
- (c) *Foundations.* Every foundation shall be reasonably weathertight, rodentproof, and shall be kept in good repair. The foundation elements shall adequately support the building at all points.
- (d) *Walls.* Every exterior wall shall be free of holes, breaks, loose or rotting siding and any other conditions which might admit rain or dampness to the interior portions of the walls or structure. All exterior surface material shall be kept in good repair.

- (e) *Windows, doors and other openings.* All openings in exterior walls of residential buildings, garages, accessory structures or other structures shall be properly fitted with windows, doors or other such fixtures for which the opening was intended. Said windows, doors or other such fixtures shall be made of materials authorized by the ordinances of the City of Ferguson, compatible with the residential building, garage, accessory structure or other structure in which they are installed, and they shall be painted with a protective coating to blend with the coloration of said residential building, garage, accessory structure or other structures.

Every window and exterior door shall be substantially tight and shall be kept in sound condition and repair. Every window sash and door shall fit reasonably tight within its frame and shall be properly hinged. Every window shall be fully supplied with panes of glass or a rigid translucent substitute, free of cracks or holes. Screens, if installed, shall be kept in good repair.

Every exterior door and its hardware shall be maintained in good condition. Door locks on all doors entering residential buildings shall be in good repair and capable of tightly securing the door.

- (f) *Stairways and porches.* Every exterior stairway and every porch shall be kept in safe condition and sound repair. Every exterior flight of stairs and every porch floor shall be free of deterioration. Every porch rail and balustrade shall be firmly fastened and maintained in good condition. No flight of stairs shall have rotting, loose or deteriorating supports. No porch shall have rotting, loose or deteriorating supports or floors.
- (g) *Chimneys and flues.* Any brick, masonry or other structural chimney or flue and any attached accessories shall be kept in sound repair.
- (h) *Gutters.* Every residential building and garages attached to residential buildings shall be guttered and have ample downspouts properly positioned and in good repair. Roof water shall not be channeled to adjacent property.
- (i) *Roof.* All roofs shall be sufficiently waterproof, weatherproof and fitted to exclude the entrance of rain, rodents, birds, and other impediments to the maintenance of interior health and safety. All surface materials shall be kept in good repair.
- (j) *Accessory structures.* All accessory structures shall be maintained in good condition and shall be compatible with their intended use.
- (k) *Fixtures and hardware.* Fixtures, including awnings, shutters and the like, shall be maintained in good condition and repair.
- (l) *Exterior surfaces.* All exterior material coatings, where appropriate, shall be properly maintained.
- (Ord. No. 85-2118, § 1, 12-17-85; Ord. No. 87-2243, § 1, 12-8-87; Ord. No. 89-2350, § 1, 3-14-89; Ord. No. 91-2469, § 1, 5-14-91; Ord. No. 2009-3417, § 1, 12-8-09)

Sec. 7-134. - Same—Grounds.

Every yard, court, vent, passageway, driveway, sidewalk, fence and other portion of the lot on which the residential building stands shall be free of debris, weeds and other safety hazards, graded and drained so as to prevent the accumulation of stagnant water on any such surface. Driveways and sidewalks shall be maintained in good repair. Gravel from gravel driveways must be retained in the driveway and kept clean of sidewalks and streets.

(Ord. No. 85-2118, § 1, 12-17-85; Ord. No. 87-2245, § 1, 12-8-87)

Sec. 7-135. - Exterior appearance compliance.

On change of ownership, it shall be unlawful for any person, firm or corporation to hereafter occupy, or for any owner or agent thereof to permit the occupation of, any residential building or addition thereto, or part thereof, for any purpose until a certificate of exterior appearance compliance has been issued by the department of public works. The certificate of compliance so issued shall state that the applicant complies with all the provisions of this article. This section shall not apply to any occupancy in existence at the time of the adoption of this code.

(Ord. No. 85-2118, § 1, 12-17-85)

Sec. 7-135.1. - Application for certificate of exterior appearance compliance.

An application for a certificate of exterior appearance compliance shall be made to the department of public works and the applicant shall provide the following information:

- (1) The name of the applicant which shall be accompanied by applicant's birth certificate, driver's license, or other form of identification with a photo of the applicant upon it.
- (2) If the applicant is not the current owner of the property, the applicant shall present written authorization from the owner of record authorizing applicant to make application for a certificate of exterior appearance compliance.
- (3) The fee of forty dollars (\$40.00) is to be paid at the time of application.

(Ord. No. 95-2767, § 1, 3-14-95; Ord. No. 2001-3125, § 1, 6-26-01)

Sec. 7-136. - Enforcement.

(a) It shall be the duty of the director of public works to enforce the provisions of this article. The building commissioner is authorized and directed to make exterior inspections only to determine whether buildings, structures, or premises located within this city conform to the requirements of this article. Inspections of property under this Code shall be made after the effective date of this Code under either of the following conditions:

- (1) Whenever there is a change of ownership or occupancy of a residential building designed for occupancy by one (1) or more families.
- (2) Where there is exterior deterioration of a residential building, garage, accessory structure or other structure.

(b) For the purpose of making such inspections, the director of public works, or his agent, is authorized to enter upon the premises to examine exterior structures and ground conditions.

(Ord. No. 85-2118, § 1, 12-17-85)

Sec. 7-137. - Noncompliance with article—Notice of defects.

Whenever the director of public works determines that there are reasonable grounds to believe that there has been a violation of any provisions of this article, he will give notice of such alleged violation to the person or persons responsible therefor which shall:

- (1) Be in writing;
- (2) Contain a statement of the reason why it is being issued;
- (3) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this article;
- (4) Allow a reasonable time for the performance of any act it requires;
- (5)

Be served upon the owner or his agent, or the occupant, as the case may require. Such notice shall be deemed to be properly served upon such owner or agent, or on any such occupant, if a copy thereof is:

- a. Served upon him personally; or
- b. Sent by registered or certified mail to his last known address; or
- c. Posted in a conspicuous place in or about the residential dwelling affected by the notice.

Upon a determination by the director of public works that the violations of this article have been corrected, he shall issue a letter of compliance to the person or persons who had previously been issued the violation notice that said violations have been corrected.

(Ord. No. 85-2118, § 1, 12-17-85; Ord. No. 87-2246, § 1, 12-8-87)

Sec. 7-137.1. - Same—Transfer of ownership of nonconforming buildings.

It shall be unlawful for the owner or agent of an owner of any residential building or structure upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of said residential buildings or structure to another until the provisions of the violations notice have been complied with and corrected. Provided, however, an owner or agent of an owner of a residential building or structure who intends to sell, transfer or mortgage a residential building or structure and who has received a violations notice from the building commissioner may sell, transfer or mortgage said residential building or structure without first correcting the violations contained in said notice if said owner shall first furnish to the grantee, transferee or mortgagee a true copy of the notice of violation issued by the building commissioner, and shall furnish to the building commissioner a signed and notarized statement from the grantee, transferee or mortgagee acknowledging the receipt of such notice of violation, and that said person fully accepts the responsibility without condition for making the corrections or repairs required by such notice of violation within the time provided in said notice.

(Ord. No. 85-2118, § 1, 12-17-85)

Sec. 7-138. - Violations; penalties.

Any person, firm or corporation violating any of the provisions of this article shall, upon conviction thereof, be subject to the penalty provided in chapter 1, section 1-15 of the Municipal Code of the City of Ferguson.

(Ord. No. 85-2118, § 1, 12-17-85)

Sec. 7-139. - Jurisdiction of housing board of appeals under article.

- (a) The exterior housing board of appeals is hereby established. It shall consist of seven (7) members, all of whom shall be residents of the City of Ferguson and appointed by the council. The term of office of the members of the board shall be three (3) years, except that of the first members selected, three (3) shall be appointed for a term of three (3) years; two (2) for a term of two (2) years; and two (2) shall be appointed for a term of one (1) year. Vacancies shall be filled for unexpired term only. The board shall elect its own chairman and vice-chairman, who shall serve for one (1) year. The board shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions hereof, but in any case it shall take at least four (4) affirmative votes to overrule the decision of the director of public works.
- (b) The board shall have the following jurisdiction:

- (1) To hear and decide appeals where it is alleged that there is error, in any order, requirement, decision or determination made by the enforcement official;
 - (2) To authorize a variance from the strict application of any provision of the exterior appearance code where a property owner can show that this would result in an exceptional practical difficulty and be a particular hardship as distinguished from a mere inconvenience to such owner, if such relief can be granted without substantial detriment to the public welfare and without substantially impairing the general purpose and intent of this code.
- (c) Any person claiming to be aggrieved by any order, requirement, decision or determination made by the enforcement official hereunder, or seeking a variance from the provisions of this code, shall have the right to appeal to the board. Upon filing of a notice of appeal or request for variance, the enforcement official shall forthwith submit to the board all papers constituting the record upon which the action appealed from or request for variance was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the enforcement official certifies to the board that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed.
- (d) A councilman selected by the council shall attend meetings of the housing board of appeals and shall have the right of discussion in accordance with the board's rules and regulations, but shall not be entitled to vote.
- (e) *Meetings of the board may be called by the mayor.*

(Ord. No. 85-2118, § 1, 12-17-85; Ord. No. 89-2391, § 1, 12-5-89; Ord. No. 97-2955, § 1, 11-10-97)

Sec. 7-140. - Procedure for filing appeals.

Any appeal herein shall be taken within fifteen (15) calendar days after the decision is rendered by filing with the building commissioner a notice of appeal, specifying the grounds therefor.

(Ord. No. 85-2118, § 1, 12-17-85; Ord. No. 91-2498, § 1, 8-20-91)

Sec. 7-141. - Appeal—Information to be furnished to housing board of appeals.

It shall be the duty of the building commissioner to furnish the housing board of appeals, upon request, with copies of the reports of any or all inspections made by such officers in the matter on appeal, and to furnish such other information as may be available to them and requested by them.

(Ord. No. 85-2118, § 1, 12-17-85)

Sec. 7-142. - Same—Notice and hearing.

The housing board of appeals shall fix a time and place for the hearing of appeals. Such a date of hearing shall be established within fifteen (15) calendar days after the filing of the notice of appeal. Notice of the time and place of hearings shall be sent by mail to the appellant or to his attorney of record, and such hearing shall not be less than fifteen (15) calendar days after the mailing of the notice of the hearing date. At such hearing, any party may appear in person, or by agent or attorney.

(Ord. No. 85-2118, § 1, 12-17-85)

Sec. 7-143. - Same—Action and decision of board generally.

- (a) In exercising the powers enumerated in this article, the housing board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made.

- (b) The housing board of appeals shall act by majority vote and a quorum shall consist of at least four (4) members, but in any case it shall take at least four (4) affirmative votes to overrule the director of public works. The action of the board shall not become effective until after the resolution of the board setting forth the reason for its decision and the vote of each member participating therein has been spread upon the minutes. Such resolutions immediately following the board's final decision shall be filed in the office of the board and shall be open for public inspection.

(Ord. No. 85-2118, § 1, 12-17-85)

Sec. 7-144. - Review of decisions of board.

Any decision of the board under this article shall be subject to review by a writ of certiorari to the Circuit Court of St. Louis County, Missouri.

(Ord. No. 85-2118, § 1, 12-17-85)

DIVISION 3. - MINIMUM SPACE REQUIREMENTS^[7]

Footnotes:

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Editor's note—Ord. No. 2006-3257, § 1, adopted Jan. 24, 2006, renumbered art. VII, div. 2, as art. VII, div. 3.

Sec. 7-145. - Minimum living space regulations.

- (a) To protect the health and safety of occupants, maintain sanitary conditions within a dwelling, and prevent dwelling overcrowding, maximum occupancy limits shall be established by the city for each residential building structure or dwelling unit within the City of Ferguson. No residential building, structure or dwelling unit shall be occupied at levels exceeding the maximum occupancy limit determined for such residential building, structure or dwelling unit.
- (b) For purposes of this section, a bedroom shall be defined as a separate room having a door to a common hallway or family living area within the residential unit or structure and containing a window meeting the requirements for adequate escape or egress as set forth in the city's building code, and sufficient heating and electrical systems as are required for bedrooms under the city's building code. Kitchens, bathrooms, hallways, closets, nonhabitable spaces and interior public areas, such as a living room and dining room, shall not be considered as bedrooms.
- (c) Small efficiency units without a separate bedroom shall have a maximum occupancy limit of one (1) person.
- (d) The maximum occupancy limits of residential structures and dwelling units shall be determined by the number of bedrooms within such structure or unit and shall be calculated as follows:
- (1) For each bedroom containing less than seventy (70) square feet: One (1) occupant.
 - (2) For each bedroom containing between seventy (70) square feet and one hundred twenty (120) square feet: Two (2) occupants.
 - (3) For each bedroom over one hundred twenty (120) square feet: Two (2) occupants plus one (1) additional occupant for each additional fifty (50) square feet of space over one hundred twenty (120).

(Ord. No. 85-2118, § 1, 12-17-85; Ord. No. 2009-3417, § 3, 12-8-09)

Sec. 7-145.1. - Occupancy permit.

- (a) Either upon occupying a newly constructed residential building, or upon each change of occupancy of any residential building, or upon increase in the number of person occupying any residential building (except for children born to the occupant), the new occupant, or in the case of an increase in the occupancy, the existing occupant, shall apply for an occupancy permit for the residential building to be occupied. In the event of a violation of this section, the owner, renter, lessee and all occupants shall all be considered responsible parties.
- (b) No occupancy permit shall be issued until the following certificate or certificates have been issued by the city.
 - (1) For all owner-occupied residential property, no occupancy permit shall be issued until a certificate of exterior appearance compliance has been issued for such property.
 - (2) For all residential rental property as defined in this Code, no occupancy permit shall be issued until both (i) a certificate of exterior appearance compliance and (ii) a certificate of interior compliance has been issued. provided, however, if a certificate of interior compliance has been issued within the twelve (12) months prior to the application for occupancy, no additional certificate of interior compliance shall be required.

For purposes of this section, both certificates shall be based upon the standards and requirements set forth in this Code pertaining to existing residential structures and dwelling units. Certificates shall be issued only upon an inspection which shows that the property meets all requirements for residential property set forth in this Code.

(Ord. No. 85-2118, § 1, 12-17-85; Ord. No. 2009-3417, § 4, 12-8-09; Ord. No. 2010-3450, § 1, 11-9-10)

Sec. 7-145.2. - Application for permit.

The applicant shall make application to the office of the code official and the applicant shall provide the following information:

- (1) Name of the applicant, which shall be accompanied by:
 - a. The applicant's birth certificate, driver's license, or other form of identification with a photo of the applicant upon it, and
 - b. The name of each additional person who will occupy the property, and
 - c. If the applicant is renting or leasing the residential building, a copy of the lease or rental agreement of the applicant shall be required.
- (2) The relationship of each additional person to the applicant;
- (3) The address of the residential building to be occupied;
- (4) If less than the entire residential building is to be occupied, state specifically that portion which is to be occupied and the number of occupants using remaining portion of residential building;
- (5) No occupancy permit shall be issued under this chapter until all fees and monies due have been paid to the city, including, but not limited to, charges for solid waste service to the property, special tax bills relating to said property, and all other fees, charges, or expenditures due to or made by the city relating to said property;
- (6) No applicant shall enter into the occupancy of any residential building unit until it shall be ascertained that the residential building or portion thereof to be occupied meets the minimum requirements for living space and an occupancy permit has been issued to the applicant.
- (7) The fee of forty dollars (\$40.00) is to be paid at the time of application.

(Ord. No. 85-2118, § 1, 12-17-85; Ord. No. 2617, § 1, 4-27-93; Ord. No. 93-2635, § 1, 6-8-93; Ord. No. 95-2772, § 1, 4-25-95; Ord. No. 2001-3125, § 1, 6-26-01)

Sec. 7-145.2.1. - Conditional occupancy permits.

- (a) A conditional occupancy permit may be issued by the code official if, in his judgment:
 - (1) Any deficiency or non-compliance with this code would not seriously endanger the health or safety of the occupants or the community, and
 - (2) Provided the person who will occupy said premises executes an affidavit that all required corrections necessary to bring the premises in to compliance with all of the Ferguson ordinances shall be made within the time specified therein but not to exceed thirty (30) days, and
 - (3) In the sole discretion of the public works director, sufficient guarantees, including but not limited to, the establishment of an escrow account or posting of a completion bond which will guarantee that the premises will be brought into full compliance with the ordinances of the city within the time established. Any escrow account or completion bond should be established by the code official in an amount necessary to complete the work by a licensed contractor at prevailing prices. The code official may accept, in his discretion, ten (10) percent of the total amount necessary to complete the work as the required escrow. In no case shall the amount posted be less than two hundred fifty dollars (\$250.00).
- (b) No conditional occupancy permit shall be issued for any rental/leased units including but not limited to apartments, dwelling units, duplexes, multi family units, and single family residences.
- (c) Once a conditional occupancy permit is issued, the dwelling unit may be then occupied while repairs are being made.
- (d) If the deficiencies are not corrected within the time specified, the conditional occupancy permit will be revoked upon the expiration of the allotted time and any occupants of said premises must vacate the premises immediately and the escrowed funds referred to in [a] will be forfeited to the city.
- (e) At such time as a dwelling unit complies with all the provisions of this chapter, an occupancy permit will be issued as provided herein.
- (f) It shall be unlawful for any person to knowingly make any false statement in his application for any occupancy permit as to the names, ages, relationship, or number of occupants who will occupy the premises. Any false information on any application or representations given to the code official shall be a violation of this section and may result in the immediate revocation of any conditional occupancy permit issued herein and the immediate vacation of the premises.
- (g) The conditional occupancy permit shall always be subject the Ferguson Municipal Code. Non-compliance with the regulations of the code shall be deemed a violation subject to the penalties set forth herein, and in addition the director of public works or his authorized representative shall be empowered to revoke any conditional occupancy permits for the unit in question, until such time as all violations are corrected and the premises are brought into compliance with the Ferguson Municipal Code.
- (h) An affidavit of the persons to occupy the premises to bring the premises into full compliance may be accepted by the public works director in lieu of any financial guarantees if in his opinion the deficiencies are so minor to warrant waiving the requirement of a escrow or other security to guarantee the completion of the work.
- (i)

In the sole discretion of the public works director, conditional occupancy permits may be extended for additional ninety (90) day periods when, in his opinion, practical difficulties prevent complete compliance within the first thirty (30) day period, provided compliance in a shorter period of time is impractical due to weather or other conditions and provided significant progress has been made during the initial thirty (30) day period or a specific plan is submitted for compliance in the additional periods granted pursuant to this section. In no event shall any additional periods be granted for compliance without a specific good faith showing on the part of the occupant that they have initiated procedures to comply and are proceeding with an on-going effort to comply and to bring the property into compliance with all of Ferguson ordinances.

- (j) No conditional occupancy permits shall be issued under the provisions of this code for premises which have been newly constructed.

(Ord. No. 2003-3178, § 1, 5-7-03)

Sec. 7-145.3. - Inspections.

- (a) *Exterior compliance.* The code official, upon receiving an application for an occupancy permit or written request for inspection and the payment of the fee therefor, shall conduct the required inspection. In the case of a permit which only requires a certificate of exterior appearance compliance, such inspection shall be completed within three (3) days of the filing date of the application. In the case of a permit which also required a certificate of interior compliance, the inspection shall be completed within the time frame for completion of the interior inspection.
- (b) *Interior compliance.* In the case of a permit which also requires a certificate of interior compliance, the code official, upon receiving an application for an occupancy permit or written request for inspection and the payment of the fee therefor, shall conduct the required inspection. The inspection shall be completed within thirty (30) days of the filing date of the application.
- (c) *Notification of noncompliance in writing.* In any case where the property does not meet the requirements of this Code, the applicant and the owner shall be notified in writing; such notice shall contain a description of the deficiencies.

(Ord. No. 85-2118, § 1, 12-17-85; Ord. No. 2009-3417, § 5, 12-8-09; Ord. No. 2014-3553, § 1, 5-27-14)

Sec. 7-145.4. - Issuance.

In issuing an occupancy permit to renters of apartments, the space requirement shall be based on the perimeter of the unit.

(Ord. No. 85-2118, § 1, 12-17-85)

Sec. 7-145.5. - Notice of compliance.

Each inspector shall, upon issuing the notice of compliance, state on the compliance notice the maximum number of persons that can occupy the residential building unit.

(Ord. No. 85-2118, § 1, 12-17-85)

Sec. 7-145.6. - Violations; penalties.

Any person, firm or corporation violating any of the provisions of this article shall, upon conviction thereof, be subject to the penalty provided in Chapter 1, section 1-15 of the Municipal Code of the City of Ferguson. The following violations of the provisions of this division shall constitute an offense:

Any person who shall newly occupy any residential building without first making an application for an occupancy permit and receiving an occupancy permit therefor;

- (2) Any person, firm or corporation, or any agent thereof, who shall, in making an application for an occupancy permit, make or provide any false or misrepresented information on the application for the occupancy permit, which, if the proper information had been provided, would have caused a denial of the permit;
- (3) If an occupancy permit is granted based upon an application supplied by the applicant, and thereafter additional persons occupy the residential property and the owner, tenant, lessee or the head of the household condones or fails to report such additional persons occupying such residential dwelling, which if the additional persons had been reported would have caused a denial of all or some of the additional persons to reside in said residential building, the legal applicant shall, in such case, be construed to be in violation of this provision;
- (4) Any landlord or lessor who shall allow or permit the occupancy of any residential building without first verifying the issuance of an occupancy permit by receipt of a copy of the occupancy permit issued to the prospective tenant.

(Ord. No. 85-2118, § 1, 12-17-85; Ord. No. 97-2904, § 1, 5-27-97)

Sec. 7-145.7. - Electric company to notify city of successors to existing service.

For any month when there is a change of user of residential (rate 001) or nonresidential (rate 043) electric service within the city, Union Electric Company shall notify the assistant to the city manager (or other appropriate official) of the city in writing within seven (7) working days after the end of the month of said changes, indicating the address and apartment or unit number, and the name(s) of electric user(s) per service and address and apartment or unit number in whose name the service is connected or billed.

(Ord. No. 93-2619, § 1, 4-27-93)

Secs. 7-145.8—7-145.20. - Reserved.

DIVISION 4. - VACANT RESIDENTIAL STRUCTURES^[8]

Footnotes:

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Editor's note—Ord. No. 2006-3257, § 1, adopted Jan. 24, 2006, renumbered art. VII, div. 3, as art. VII, div. 4.

Sec. 7-145.21. - Purpose and scope.

It is the purpose of this division to provide for effective monitoring and routine inspection of vacant buildings and structures that, due to housing code violations, may endanger the life, limb, health, property, safety or welfare of the general public, and this division shall apply to all residential structures that have been vacant for more than six (6) months and that are subject to housing code violations.

(Ord. No. 2003-3170, § 1, 3-11-03)

Sec. 7-145.22. - Definitions.

The following words and phrases when used in this division shall mean:

Housing code: A local building, fire, health, property maintenance, nuisance or other ordinance which contain standards regulating the condition or maintenance of residential buildings.

Residential structure: A structure devoted primarily to residential use, whether classified as residential or commercial, and regardless of the number of dwelling units contained within such structure.

(Ord. No. 2003-3170, § 1, 3-11-03)

Sec. 7-145.23. - Registration requirements.

Every parcel of residential property improved by a residential structure or commercial property improved by a structure containing multiple dwelling units, that is vacant, and has been vacant for at least six (6) months, and is characterized by violations of the housing code shall be registered as a vacant residential structure and shall be subject to the registration fee.

(Ord. No. 2003-3170, § 1, 3-11-03)

Sec. 7-145.24. - Designation of vacant residential structures.

- (a) *Registration.* The director of public works for the City of Ferguson, Missouri, or his designee, shall investigate any property that may be subject to registration. Based upon his findings, the director may register property as a vacant residential structure subject to this division.
- (b) *Notice of registration.* Within five (5) business days of such registration, the city clerk shall notify the owners of the registered property by mail at their last known address according to the records of the City of Ferguson and St. Louis County. Such notice shall state:
 - (1) A description of the property registered;
 - (2) A description of the housing code violations found on the property;
 - (3) The fact that a semi-annual registration fee has been levied on the property; and
 - (4) The amount of the semi-annual registration fee.
- (c) *Time to cure; reconsideration.* Within thirty (30) days of the date of notification, the property owner may complete any improvements to the property that may be necessary to remove the property from registration under this division and may request a reinspection of the property and reconsideration of the levy of the registration fee. Upon receipt of a written request for reconsideration of the levy of the registration fee which sets out the reasons claimed by the property owner as to why the registration fee should be waived, the director may waive levy of the registration fee following timely compliance.
- (d) *Appeal of registration and/or reconsideration to municipal court.* Within thirty (30) days of the date of such notification or within thirty (30) days of the date of reconsideration by the director, the property owner may appeal the decision to the municipal court for the City Ferguson.

(Ord. No. 2003-3170, § 1, 3-11-03)

Sec. 7-145.25. - Registration fee.

- (a) *Amount of fee.* There is hereby established and assessed a semi-annual fee in the amount of two hundred dollars (\$200.00) imposed on all owners of property registered under this division.
- (b) *Owner responsible.* It shall be the joint and several responsibility of each owner of property registered pursuant to this division to pay the semi-annual registration fee.
- (c) *Accrual of fee.* The registration fee shall begin to accrue on the beginning of the second calendar quarter after registration by the director of reconsideration by the director; however, in the event that an appeal is filed with the municipal court, the registration fee shall begin to accrue on the beginning of the second calendar quarter after the final decision of the municipal judge or court of competent jurisdiction.
- (d)

Billing procedures; late penalties. The director of finance shall cause to be mailed to the owner of property registered under this division, at his or her last known address, a bill for the semi-annual registration fee. The fee shall be due and payable within thirty (30) days of mailing. In addition to any other penalties provided by law, if an owner fails to pay the fee assessed for such property within thirty (30) days of the date of mailing, a late payment fee of twenty-five dollars (\$25.00) per month shall be assessed for each month during which the fee remains unpaid.

- (e) *Failure to pay fee unlawful.* It shall be unlawful for any owner of property registered pursuant to this division to fail to pay the registration fee imposed for such property. Any person found guilty of failing to pay any required fee shall be punished as provided in section 1-15, General penalty, of the Municipal Code.
- (f) *Collection of delinquent fees; lien on property and other effects of delinquent fees; foreclosure proceedings.*
 - (1) *Action to recover.* In addition to any other penalties provided by law, the city may initiate and pursue an action in a court of competent jurisdiction to recover any unpaid fees, interest and penalties from any person liable therefore and, in addition, may recover the cost of such action, including reasonable attorney fees.
 - (2) *Lien on property.* Any unpaid or delinquent fees, interest and/or penalties, whether or not reduced to judgment, shall constitute a lien against the property for which the fee was originally assessed until the same shall be fully satisfied. The director of finance is authorized to take all steps necessary to file and perfect such liens as may be required or directed by the director from time to time.
 - (3) *Obtaining permits prohibited.* In addition to any other penalties provided by law, if an owner fails to pay the fee assessed for such property, including any late payment fee subsequently imposed, within sixty (60) days of the date of mailing of the initial bill, said owner shall not be permitted to apply for, obtain or renew any city license or permit of any kind until such delinquency has been satisfied.
 - (4) *Foreclosure.* Any registration fees which are delinquent for a period of one (1) year shall be subject to foreclosure proceedings in the same manner as delinquent real property taxes. The owner of the property against which the assessment was originally made shall be able to redeem the property only by presenting evidence that the violations of the applicable housing code cited by the director have been cured and presenting payment of all registration fees and penalties.
 - (5) *Sale of property.* Upon bona fide sale of the property to an unrelated party, the lien on such property for the registration fees shall be considered released and the delinquent registration fee forgiven.

(Ord. No. 2003-3170, § 1, 3-11-03)

ARTICLE VIII. - CONDOMINIUMS^[9]

Footnotes:

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State Law reference— *Condominium property, RSMo Ch. 448.*

DIVISION 1. - GENERALLY

Sec. 7-146. - Purpose; declaration of policy.

- (a) The general purpose of this article is to protect the public health, safety, comfort, and the general welfare of the people of the city.

(b) It is intended to define and regulate a type of domicile not previously recognized by the ordinances of the city. Condominiums have certain unique features as well as some associated with both single and multiple-family residences. As such, they have commonly been considered to require special legislation with definite objectives. These general objectives include, among others, the following specific purposes:

- (1) To ensure that all condominium dwellings within the city meet the existing codes of the city;
- (2) To provide prospective owners of condominium units access to information regarding condominium ownership and the unit owners' responsibilities for the continuing maintenance of the condominium property;
- (3) To provide to the residents of rental units designated for conversion to condominium property a reasonable time period during which to make their future housing decisions;
- (4) To minimize the stress upon the rental housing market within the city occasioned by the need of residents of rental units designated for conversion to condominium property to find alternative rental housing;
- (5) To encourage the maintenance and improvement of the quality of housing with the city.

(Code 1973, § 56.010(B))

Sec. 7-147. - Scope of article.

This article applies to all multiple-family dwellings located within the city which are to be developed as new or conversion condominiums.

(Code 1973, § 56.010(D))

Sec. 7-148. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Association shall mean the association of all of the unit owners, acting pursuant to by-laws through its duly elected board of managers.

Common elements shall mean all portions of the property except the units.

Condominium shall mean all the land, property and space comprising the parcel or parcels, all improvements and structures erected, constructed or contained therein or thereon, including the building or buildings and all easements, rights and appurtenances belonging thereto, and all fixtures and equipment intended for the mutual use, benefit, or enjoyment of the unit owners, subject to the provisions of RSMo Ch. 448 and to this article.

Condominium instruments shall mean all documents and authorized amendments, including but not limited to the declarations, by-laws, plats, and condominium disclosure statement which are required to be filed pursuant to the provisions of this article.

Condominium unit shall mean a part of the condominium property including one (1) or more rooms, occupying one (1) or more floors or a part or parts thereof, designed as a residential unit and having lawful access to a public way.

Conversion condominium shall mean developed property which was originally built as a multiple-family structure or cluster of structures under a single, corporate or partner ownership and which property is being submitted to the city for approval as a condominium individual unit estate complete with an interest in a larger common estate.

Declarant shall mean any person who plans to execute or has executed the declaration or on whose behalf the declaration is executed.

Declaration shall mean the instrument as defined in RSMo 448.010(2) by which property is submitted to the provisions of such provisions.

Filing shall mean the complete submission of all documents required by sections 7-161 and 7-162 with a stamped date of filing contained thereon.

Offering shall mean any advertisement, publication, announcement, solicitation or inducement, either written or verbal, by a declarant to promote the purchase of a condominium unit or prospective condominium unit.

Person shall mean a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

Where not otherwise defined, terms used in this ordinance shall have the meaning of those terms as defined in either RSMo 448.010, 448.1-103 or the zoning ordinance of the city, whichever is applicable.

(Code 1973, § 56.010(E), (F))

State Law reference— Similar definitions, RSMo 448.010.

Cross reference— Definitions and rules of construction generally, § 1-2.

Secs. 7-149—7-160. - Reserved.

DIVISION 2. - NEW CONDOMINIUMS

Sec. 7-161. - General requirements.

- (a) New construction condominiums must be located in and meet the lot size, height and area requirements of the R-3, R-4 and R-5 Districts of the zoning regulations of the city.
- (b) New construction condominiums shall comprise not less than twenty (20) units with associated common properties.
- (c) The minimum living area of each condominium unit, exclusive of common elements, shall be eight hundred (800) square feet.

(Code 1973, § 56.030(A))

Sec. 7-162. - Procedures for approval.

- (a) *Filing and receipt of the condominium instruments.* Any person seeking to submit property situated within the city to the provisions RSMo 448.010 to 448.210, must file the condominium instruments including the plat and condominium disclosure statement with the city manager, who shall stamp the date of filing upon such documents and append the following signed statement to the first page of the condominium disclosure statement:

"ON THIS DATE THE CITY OF FERGUSON RECEIVED ALL THE CONDOMINIUM INSTRUMENTS REQUIRED TO BE FILED UNDER THE PROVISIONS OF THE COMPREHENSIVE CONDOMINIUM ORDINANCE. THE CITY HAS UNDERTAKEN NO INVESTIGATION TO VERIFY THE INFORMATION CONTAINED IN THESE DOCUMENTS, DOES NOT WARRANT THE ACCURACY OF THE INFORMATION CONTAINED THEREIN, AND ASSUMES NO RESPONSIBILITY FOR THE DECLARANT'S ACTION OR FAILURE TO ACT."

- (b) *Review and submission of the condominium instruments.* Upon verification by the city manager that the condominium instruments are complete, the city shall review the condominium plat, in accordance with procedures of its subdivision and zoning regulations, approve with conditions, or disapprove the condominium subdivision.
- (c) *Recording of condominium instruments.* Recording shall be as required by subdivision regulations for subdivision plat and all other documents required to be recorded and copies filed with the director of public works and city clerk.

(Code 1973, § 56.030(B))

Sec. 7-163. - Disclosure statement.

- (a) *Purpose, contents.* The condominium disclosure statement shall disclose fully and accurately the characteristics of the condominium and the units therein and all unusual and material circumstances and features affecting the condominium. The statement will be used by the city during its review procedures and will be available to the general public and potential purchasers of the condominium units. It shall include:
 - (1) The name and principal address of the declarant and the condominium;
 - (2) The general description of the condominium, including the number and types of units, the anticipated asking price of each type of unit, any restrictions on use and occupancy of the units, floor plans, the arrangements for off-street parking and the proportion of units that the declarant intends to rent or to market to investors;
 - (3) Copies of the declaration, the by-laws, any rules and regulations and any contracts and leases required to be signed by purchasers with a brief narrative description of each document;
 - (4) A projected budget of the association for one (1) year after the date of the first conveyance to a purchaser and one (1) additional one-year projected budget, a statement of who prepared each of the budgets, and a statement of the budgets' assumptions concerning occupancy and inflation factors. The budget must include:
 - a. *Operating costs:*
 - Utilities;
 - Heating fuels;
 - Janitorial services;
 - Trash and garbage disposal;
 - Ground and building maintenance;
 - Security;
 - Maintenance and operation of recreational and other facilities;
 - Building insurance;

Elevator maintenance;

Sidewalks and street maintenance;

Other operating costs;

b. *Management costs:*

Accounting and bookkeeping services;

Legal services;

Management fees;

c. *Reserve costs:*

Reserve for improvements;

Reserve for unexpected repair work;

Reserve for replacement and upkeep of common area and facilities;

Reserve for taxes and special assessments;

(5) Any current or expected fee to be paid by unit owners for the use of the common areas and other facilities related to the condominium.

- (b) *Use.* The condominium disclosure statement shall not be distributed or used for any promotional purposes before filing of the condominium instruments with the city and afterwards shall be used only in its entirety, including the signed statement of the city appended to its first page as required by section 7-162(a).
- (c) *Public inspection.* A copy of the condominium disclosure statement must be available for public inspection in the sales office of the declarant, and a copy shall be provided to all purchasers prior to their signing a binding sales agreement.
- (d) *Amendments.* The city may require the declarant to amend the proposed condominium disclosure statement in order to assure full compliance with the provisions of this article. No material change in the development of the condominium instruments may be made after filing without notifying the city and making appropriate amendments to the condominium disclosure statement.

(Code 1973, § 56.030(C))

Secs. 7-164—7-175. - Reserved.

DIVISION 3. - CONVERSION CONDOMINIUMS

Sec. 7-176. - General requirements.

- (a) The conversion of residential property to condominiums shall be allowed only within the R-3, R-4 and R-5 Districts of the zoning regulations of the city.
- (b) The following special conditions must be met:
- (1) The minimum living area of such condominium unit, exclusive of associated common elements, shall be seven hundred fifty (750) square feet.
 - (2) There shall be at least twelve (12) units described in each condominium declaration. These need not all be in the same building; but, if any part of a multiple-family structure is to be converted to condominiums, it must be entirely converted.

- (c) The approval of the conversion of multiple dwelling units into condominium units by the council shall not in any manner cause a waiver of any of the provisions of the zoning or subdivision regulations of the city, which were in effect, and were accepted by the subdivision developer, at the time of the approval of the subdivision plat by the council in which the proposed conversion units are situated, including height and area regulations, required tract size in certain districts, number of dwelling units developed under an approved plan development; as well as any special agreements, stipulations, indentures, variances or exclusions pertaining thereto and in effect at the time of the adoption of the condominium declaration with respect to the proposed conversion.
- (d) In approved planned residence districts (R-5) of the zoning regulations of the city developed with multiple-family units, conversions to condominium dwelling units may be approved, but only if the entire subdivision approved under such plan shall be so converted. If such conversion is approved by the council, it will constitute a waive of the provisions of the zoning regulations of the city requiring the entire planned residence development to remain under a single ownership.

(Code 1973, § 56.040(A))

Sec. 7-177. - Procedures for approval.

- (a) *Filing and receipt of the condominium instruments.* Any person seeking to submit existing residential multi-family property within the city to the provisions of RSMo Ch. 448, must file:
 - (1) The condominium instruments, including the plat and condominium disclosure statement, as described in section 7-178;
 - (2) A report prepared by an independent, licensed architect or engineer describing the items specified in section 7-178(a)(6);
 - (3) An affidavit that the notice to tenants requirements of section 7-179(a) have been complied with;
 - (4) A filing fee of twenty dollars (\$20.00) per unit described in the declaration shall be deposited with the city manager who shall stamp the date of filing upon such documents and append the following signed statement to the first page of condominium disclosure statement:

"ON THIS DATE THE CITY OF FERGUSON RECEIVED ALL THE CONDOMINIUM INSTRUMENTS REQUIRED TO BE FILED UNDER THE PROVISIONS OF THE COMPREHENSIVE CONDOMINIUM ORDINANCE. THE CITY HAS UNDERTAKEN NO INVESTIGATION TO VERIFY THE INFORMATION CONTAINED IN THESE DOCUMENTS, DOES NOT WARRANT THE ACCURACY OF THE INFORMATION CONTAINED THEREIN, AND ASSUMES NO RESPONSIBILITY FOR THE DECLARANT'S ACTIONS OR FAILURE TO ACT."
- (b) *Condominium code assessment report.* Within sixty (60) days after receipt by the city of the affidavit of compliance with the notice to tenants' requirements of section 7-179(a) and upon payment of the filing fee set forth in subsection (a)(4), a condominium code assessment report shall be prepared by the city listing violations of all applicable codes existing as of that date.
- (c) *Filing of statement of needed corrections.* Where the city determines in its condominium code assessment report that the subject property is not in compliance with all applicable building, zoning and housing codes, the declarant shall also file:
 - (1) A verified statement showing the estimated cost and time of completion of the work necessary to correct each code violation on said report and source of said estimate;
 - (2) Satisfactory evidence of sufficient funds to cover all of the costs in subsection (c)(1) without the use of any purchasers' funds.
- (d)

Review and submission of the condominium instruments. Upon verification by the city manager that the condominium instruments are complete, the city shall review the condominium plat, in accordance with procedures of the subdivision regulations of the city and approve, approve with conditions, or disapprove the condominium conversion.

(Code 1973, § 56.040(B))

Sec. 7-178. - Disclosure statement.

(a) *Purpose, contents.* The condominium disclosure statement shall disclose fully and accurately the characteristics of the condominium and the units therein and all unusual and material circumstances and features affecting the condominium. The statement will be used by the city during its review procedures and will be available to the general public and potential purchasers of the condominium units. It shall include:

- (1) The name and principal address of the declarant and the condominium;
- (2) A general description of the condominium, including the number and types of units, the asking price of each type of unit, any restrictions on use and occupancy of the units, floor plans, the arrangements for off-street parking and the proportion of units that the declarant intends to rent or to market to investors;
- (3) Copies of the declaration, the by-laws, the rules and regulations and any contracts and leases to be signed by purchasers at closing, with a brief narrative description of each document;
- (4) A projected budget of the association for one (1) year after the date of the first conveyance to a purchaser and one (1) additional one-year projected budget, a statement of who prepared each of the budgets, and a statement of the budget's assumptions concerning occupancy and inflation factors. The budget must include:

a. *Operating costs:*

Utilities;

Heating fuels;

Janitorial services;

Trash and garbage disposal;

Ground and building maintenance;

Maintenance and operation of recreational and other facilities;

Building insurance;

Elevator maintenance;

Sidewalks and street maintenance;

Other operating costs;

b. *Management costs:*

Accounting and bookkeeping services;

Legal services;

Management fees;

c. *Reserve costs:*

Reserve for improvements;

Reserve for unexpected repair work;

Reserve for replacement and upkeep of common area and facilities;

Reserve for taxes and special assessments;

- (5) A statement of the current age of the roof covering and also of the heating and air conditioning equipment and any other electrical appliances to be sold with each unit;
 - (6) A statement of the declarant providing notification that a report prepared by an independent, licensed, architect or engineer is on file with the city which describes the present condition of all structural components, mechanical systems, and utility services, and the expected useful life of each such item and system;
 - (7) A copy of the condominium code assessment report prepared by the city;
 - (8) Any current or expected fee to be paid by unit owners for the use of the common areas and other facilities related to the condominium.
- (b) *Use.* The condominium disclosure statement shall not be distributed or used for any promotional purposes before filing of the condominium instruments with the city and afterwards shall be used only in its entirety, including the signed statement of the city appended to its first page as required by section 7-177(a).
- (c) *Public inspection.* A copy of the condominium disclosure statement must be available for public inspection in the sales office of the declarant and a copy shall be provided to all purchasers prior to their signing a binding sales agreement.
- (d) *Amendments.* The city may require the declarant to amend the proposed condominium disclosure statement in order to assure full compliance with the provisions of this article. No material change in the development of the condominium instruments may be made after filing without notifying the city and making appropriate amendments to the condominium disclosure statement.

(Code 1973, § 56.040(C))

Sec. 7-179. - Protection of tenants.

- (a) *Notice requirements.* The following notice requirements must be met by a declarant when he proposes to create a conversion condominium:
- (1) A declarant of a conversion condominium shall give each of the tenants in possession of units subject to this article notice of intent to convert no less than one hundred eighty (180) days prior to requiring the tenants to vacate. The notice shall be filed with the city as provided in section 7-177(a).
 - (2) The notice of intent required by subsection (a)(1) must set forth the rights of tenants under this article and must include a copy of this section as an attachment. Such notice shall be hand delivered or sent by certified mail.
 - (3) No tenant may be required by the declarant to vacate upon less than one hundred eighty (180) days' notice, except by reason of nonpayment of rent, conduct that disturbs other tenants' peaceful enjoyment of the premises, or other substantial violations of the terms of the rental agreement or upon termination of a lease.
 - (4) Nothing in this section permits termination of a lease by a declarant in violation of its terms.

- (5) Any tenant under a lease entered into subsequent to the effective date of the ordinance from which this section was derived who receives a notice of intent to convert shall at any time after receipt of the notice have the right to terminate the lease with sixty (60) days' written notice to the landlord. Such termination shall be without penalty or other termination charge to the tenant. By delivering the notice of termination to the landlord, the tenant waives the right to purchase the unit under section 7-177.
- (6) Those tenants under a lease entered into subsequent to the effective date of this article who within thirty (30) days of signing of a lease, whether or not they have moved into the unit, receive notice of intent to convert shall have fifteen (15) days from receipt of that notice to serve an immediate fifteen (15) days' notice of their intent to vacate, or not to honor such lease. There shall be no penalties assessed against tenants who void their lease pursuant to this section. Failure of such tenant to utilize this fifteen (15) days' notice right is not a waiver of his rights to give sixty (60) days' notice as set forth in subsection (a)(5).
- (7) Failure of a declarant to give notice as required by subsection (a)(6) is a defense to an action for possession, unless the tenant knowingly avoids receiving or delivery of such notice of intent.
- (b) *Tenant's right to purchase.* Tenants of structures being converted into condominiums shall have the following rights:
 - (1) Following delivery to the tenant of the notice of intent to convert, the declarant shall offer the tenant the right to purchase his unit. This offer shall be held open until tenant acceptance or refusal, but in no event longer than sixty (60) days. Refusal of declarant's offer or inaction by the tenant during the sixty (60) day period shall constitute a waiver of the tenant's right of first purchase. The offer to the tenant shall be at no higher than the then published offering price and shall be accompanied by the condominium instruments required to be filed with the city.
 - (2) Subsection (b)(1) does not apply to any unit in a converted unit do not substantially conform to the dimensions of the unit before conversion; however, where it is available, another unit similar to the preconversion dwelling must be offered to the affected tenant [sic].
- (c) *Scope of section.* Any condominium in the city which is subject to the provisions of RSMo 448.4-112 shall be governed by such provisions and not by the provisions of this section.

(Code 1973, § 56.050)

Secs. 7-180—7-189. - Reserved.

ARTICLE IX. - DEMOLITION, VACATION, OR REPAIR OF DANGEROUS BUILDINGS

Sec. 7-190. - Dangerous buildings defined.

All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings" and as such are considered detrimental to the health, safety or welfare of the residents of the City of Ferguson.

- (1) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- (2) Those which, exclusive of the foundation, show thirty-three (33) percent or more of damage or deterioration of the supporting member or members, or fifty (50) percent of damage or deterioration of the nonsupporting enclosing, or outside, walls or covering.
- (3)

Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

- (4) Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the city.
- (5) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.
- (6) Those having lights, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.
- (7) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of egress.
- (8) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- (9) Those which, because of their condition, are unsafe, unsanitary, or dangerous to the health, morals, safety or general welfare of the people of this city.
- (10) Those buildings existing in violation of any provision of the building code of the city, or any provision of the fire prevention code, or other ordinances of this city.

(Ord. No. 86-2133, § 1, 4-15-86)

Cross reference— Building code, § 7-41 et seq.; fire prevention code, § 17-56 et seq.

Sec. 7-191. - Standards for repair, vacation or demolition.

The following standards shall be followed in substance by the building commissioners and the building official, in order, repair, vacation, or demolition.

- (1) If the "dangerous building" can reasonably be repaired so that it will no longer exist in violation of the terms of this article, it shall be ordered repaired.
- (2) If the "dangerous building" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.
- (3) In any case where a "dangerous building" is fifty (50) percent damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this article, it shall be demolished. In all cases where a "dangerous building" is a fire hazard existing or erected in violation of the terms of this article or any ordinance of the city or statute of the State of Missouri, it shall be demolished.

(Ord. No. 86-2133, § 1, 4-15-86)

Sec. 7-192. - Dangerous buildings declared nuisances.

All "dangerous buildings" within the terms of section 7-190 of this article are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as hereinbefore and hereinafter provided.

(Ord. No. 86-2133, § 1, 4-15-86)

Sec. 7-193. - Duties of building commissioner.

The building commissioner shall, upon receiving notice that a structure may be a dangerous building as defined in section 7-190:

- (1) Inspect or cause to be inspected as may be necessary any residence, all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial manufacturing, or loft buildings for the purpose of determining whether any conditions exist which render such places a "dangerous building" within the terms of section 7-190 of this article.
- (2) Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this article.
- (3) Inspect any building, wall or structure when reported by the fire or police department of this city as probably existing in violation of the terms of this article.
- (4) Notify in writing the owner, occupant, lessee, mortgagee, agent and any other persons known to have an interest in said building as shown by the land records of the recorder of deeds of the County of St. Louis, of any building found by him to be a "dangerous building" and thereby a nuisance, within the standards set forth in section 7-190 of this article that:
 - a. The owner must vacate or repair or demolish said building in accordance with the terms of the notice and this article;
 - b. The occupant or lessee must vacate said building or may have it repaired in accordance with the notice and remain in possession;
 - c. The mortgagee, agent or other persons having an interest in said building as shown by the land records of the recorder of deeds of the County of St. Louis, may at his own risk repair, vacate, or demolish said building or have such work or act done;

Provided, that any person notified under this subsection to repair, vacate or demolish any building shall be given such reasonable time, not exceeding thirty (30) days, as may be necessary to do, or have done, the work or act required by the notice provided for herein.

- (5) Set forth in the notice provided for in subsection (4) hereof, a description of the building or structure deemed unsafe; a statement of the particulars which make the building or structure a "dangerous building" and an order requiring the same to be put in such condition as to comply with the terms of this article within such length of time, not exceeding thirty (30) days, as is deemed reasonable. If the building commissioner deems it advisable to extend the time to do the work or have the same done, or to perform any act required by the notice, he shall specify, in writing, notice of the date to which the time is extended.
- (6) Report to the building official any noncompliance with the notice provided for in subsections (4) and (5) hereof.
- (7) Appear at all hearings conducted by the building official and testify as to the conditions of "dangerous buildings."
- (8) If the building commissioner, after making an inspection of a building, finds it to be inherently dangerous and, in his opinion, constitutes a nuisance per se, upon approval of such finding ex parte by the building official, he shall place a notice on such building forthwith, which shall read as follows:

"This building has been found to be a dangerous building by the Building Commissioner of the City of Ferguson. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, and any other persons having an interest in said building as shown by the land records of the Recorder of Deeds of the County of St. Louis. It is unlawful to remove this Notice until such Notice is complied with."

(Ord. No. 86-2133, § 1, 4-15-86)

Sec. 7-194. - Duties of building official.

The building official shall:

- (1) Upon receipt of a report of the building commissioner, as provided for in section 7-193, subsection (6) thereof, give written notice to the owner, occupant, mortgagee, lessee, and any other persons known to have an interest in said building as shown by the land records of the recorder of deeds of the County of St. Louis, to appear before him on the date specified in the notice, not less than ten (10) days after receipt or posting of notice of final publication, to show cause why the building or structure reported to be a "dangerous building" should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building commissioner's report, provided for herein in section 7-193, subsection (5).
- (2) Hold a hearing open to the public and hear such testimony as the building commissioner or the owner, occupant, mortgagee, lessee, or their counsel or any other person known to have an interest in said building as shown by the land records of the recorder of deeds of the County of St. Louis, shall offer relative to the "dangerous building."
- (3) Make written findings of fact from the testimony offered pursuant to subsection (2) as to whether or not the building in question is a "dangerous building" within the terms of section 7-190 hereof.
- (4) Issue an order based upon competent and substantial evidence pursuant to subsection (3) commanding the owner, mortgagee, lessee, agent and any other persons known to have an interest in said building as shown by the land records of the recorder of deeds of the County of St. Louis, to repair, vacate or demolish any building found to be a "dangerous building" within the terms of this article and the privilege of either vacating or repairing said "dangerous building;" or, any person not the owner of said "dangerous building" but having an interest in said building as shown by the land records of the recorder of deeds of the County of St. Louis, may demolish said "dangerous building" at his own risk to prevent the acquiring of a lien against the land upon which said "dangerous building" stands by the city as provided in subsection (5) hereof.
- (5) If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in subsection (4) hereof, within thirty (30) days, the building official shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant, under the standards hereinbefore provided for in section 7-190 of this article, and shall with the assistance of the director of law cause all of the costs of such repair, vacation, or demolition and a reasonable charge for cost of administering the provisions hereof to be charged against the land on which the building existed, to be levied as a special tax bill against the land upon which the building stands or did stand.

In addition to the issuance of the special tax bill as provided in this subsection, the director of law may recover in a suit at law against the land upon which the building stands or did stand, or recover in a suit at law against the owner of said property those costs of repair, vacation, or

demolition and administration costs as heretofore provided. Provided, that in cases where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morals, safety or general welfare of the people of this city, the building official shall notify the director of law to take legal action to force the owner to make all necessary repairs or demolish the building.

- (6) Report to the director of law the names of all persons not complying with the order provided for in subsection 7-194(4) hereof.

(Ord. No. 86-2133, § 1, 4-15-86; Ord. No. 93-2672, § 1, 10-12-93; Ord. No. 97-2924, § 1, 7-15-97)

Cross reference— Special tax bills, § 7-205.

Sec. 7-195. - Board of appeals.

- (a) The owner, occupant, mortgagee, or lessee or any other interested person therein may appeal from a decision or finding of the building official to the board of appeals.
- (b) The board of appeals for purposes of this article shall be the building board of appeals as provided under section 124.0 of the Basic Building Code (BOCA Code) 1984, as adopted and set forth in Chapter 7 of the Code of the City of Ferguson, 1985, as amended.
- (c) Upon receipt of written notice of any interested person of their intention to appeal the decision or finding of the building official, all proceedings in furtherance of the action appealed from shall be stayed, unless the building official certifies to the board of appeals, after the notice of appeal shall have been filed with him, that by reason of the facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by a proper court of record on application thereto.
- (d) Procedure on appeal shall be as follows:
 - (1) *Time of appeal.* Appeals to the board of appeals shall be within ten (10) days of the building official's decision.
 - (2) *Notice of meetings.* The board shall meet upon notice of the chairman within ten (10) days of the filing of an appeal or as soon thereafter as possible, or at stated periodic meetings, if warranted, by the volume of work.
 - (3) *Public hearings.* All hearings shall be public; and the appellant, his legal or other representative, the official of the municipality, and any other person whose interest may be affected by the matter on appeal, shall be given an opportunity to be heard.
 - (4) *Adjourned meeting.* When five (5) qualified members are not present to consider a specific appeal, either the appellant, the building official or their representatives may request a postponement of the meeting.
 - (5) *Action of board.* The board shall affirm, modify or reverse the decision of the building official by a concurring vote of three (3) members.
 - (6) *Determining vote.* Failure to secure three (3) concurring votes shall be deemed a confirmation of the decision of the building official, except that the appellant shall be entitled to further hearing before a full board if there were not five (5) qualified members present when the vote was taken.
 - (7) *Enforcement of decision.* The building official shall take immediate action in accordance with the decision of the board.
- (e) Special meetings. Meetings of the board may be called by the mayor.

(Ord. No. 86-2133, § 1, 4-15-86; Ord. No. 97-2956, § 1, 11-10-97)

Sec. 7-196. - Transfer of ownership of dangerous buildings.

It shall be unlawful for the owner or agent of an owner of any building or structure that has been found to be a dangerous building pursuant to Article IX of this chapter to sell, transfer, mortgage, lease, or otherwise dispose of said building or structure to another until all of the provisions of any violation notices issued as to said building or structure and all conditions that resulted in said building to be declared a dangerous building pursuant to this Article IX have been complied with and corrected. Provided, however, an owner or agent of an owner of a building or structure who has received violation notices or has been sent the building official's determination of a dangerous building may sell, transfer, or mortgage said building or structure without first correcting the violation contained in said notice or finding of the building official if said owner shall first furnish to the grantee, transferee, or mortgagee a true copy of the notice of violation issued by the building commissioner or the notice from the building official as to a finding of a dangerous building or structure, and shall furnish to the building commissioner a signed and notarized statement from the grantee, transferee, or mortgagee acknowledging the receipt of said notice of violation and that said person fully accepts responsibility without condition for making the corrections or repairs required by said notices within the time provided for in said notices and provided further that the grantee, transferee, or mortgagee post a performance bond in a minimum amount of seven thousand five hundred dollars (\$7,500.00) or in such sufficient amount that will provide for demolition costs for said building or structure should the grantee, transferee, or mortgagee not complete the repairs and corrections within the time provided in order to bring said building or structure into total compliance with the Municipal Code of the City of Ferguson.

(Ord. No. 97-2923, § 1, 7-15-97)

Sec. 7-197. - Duties of the director of law.

The director of law or his assistants shall:

- (1) Prosecute all persons failing to comply with the terms of the notices provided for herein in section 7-193, subsections (4) and (5), and the order provided in section 7-194, subsection (4).
- (2) Appear at all hearings before the building official and board of appeals in regard to "dangerous buildings."
- (3) Bring suit to collect all liens, assessments, or costs incurred by the building commissioner in repairing or causing to be vacated or demolished "dangerous buildings."
- (4) Take such other legal action as is necessary to carry out the terms and provisions of this article.

(Ord. No. 86-2133, § 1, 4-15-86)

Sec. 7-198. - Emergency cases.

In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a "dangerous building" as defined herein is immediately repaired, vacated, or demolished, the building commissioner shall report such facts to the building official and the building official shall cause the immediate repair, vacation or demolition of such "dangerous building." The costs of such emergency repair, vacation or demolition of such "dangerous building" shall be collected in the same manner as provided in subsection 7-194(5) hereof.

(Ord. No. 86-2133, § 1, 4-15-86)

Sec. 7-199. - Notice.

In cases except emergency cases, all notices or orders provided for herein shall either be by personal service or sent by certified mail with return receipt requested to the owner, occupant, mortgagee, lessee, and any other persons known to have an interest in said building as shown by the land records of the recorder of deeds of the County of St. Louis, to the last known address of each, or to their attorney of record if they were so represented, and a copy of such notice shall be posted in a conspicuous place on the "dangerous building" to which it relates. If service cannot be had personally or by certified mail upon such person or their attorney of record in the case, if any, then service may be made by publishing said notice twice in a newspaper of general circulation in the City of Ferguson on the same day in successive weeks.

(Ord. No. 86-2133, § 1, 4-15-86)

Sec. 7-200. - Administrative liability.

No officer, agent, or employee of the city shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this article. Any suit brought against any officer, agent, or employee of the city as a result of any act required or permitted in the discharge of his duties under this article shall be defended by the city until the final determination of the proceedings therein.

(Ord. No. 86-2133, § 1, 4-15-86)

Sec. 7-201. - Judicial review.

Any of the parties interested and affected by the decision of the board of appeals may appeal said decision in the manner established by Chapter 536 of the Revised Statutes of Missouri, and the venue shall be to the circuit court of St. Louis County, Missouri, but such appeal must take place no later than thirty (30) days after the filing of the decision with the secretary of the board of appeals and the mailing of a copy of the decision to the interested persons and their attorneys, if so represented.

(Ord. No. 86-2133, § 1, 4-15-86)

Sec. 7-202. - Designation of building commissioner and building official.

- (a) The building commissioner for the City of Ferguson is hereby designated as the building commissioner for the purposes of this article.
- (b) The director of public works is hereby designated as the building official for purposes of this article.

(Ord. No. 86-2133, § 1, 4-15-86)

Sec. 7-203. - Duties of fire department.

Upon receipt of notice, the employees of the fire department shall make a report in writing to the building commissioner of any buildings or structures which are, may be, or are suspected to be "dangerous buildings" within the terms of this article. Such reports must be delivered to the building commissioner within twenty-four (24) hours of the discovery of such buildings by any employee of the fire department.

(Ord. No. 86-2133, § 1, 4-15-86)

Sec. 7-204. - Duties of police department.

Upon receipt of notice, the employees of the police department shall make a report in writing to the building commissioner of any buildings or structures which are, may be, or are suspected to be "dangerous buildings" within the terms of this article. Such reports must be delivered to the building commissioner within twenty-four (24) hours of the discovery of such buildings by any employee of the police department.

(Ord. No. 86-2133, § 1, 4-15-86)

Sec. 7-205. - Special tax bills.

Any tax bills issued under the provisions hereof shall bear interest at rate of eight (8) percent per annum after thirty (30) days. At the request of the taxpayer, the special tax bill may be paid off in installments, not to exceed ten (10) years. The tax bill shall be a lien upon the property until paid.

(Ord. No. 86-2133, § 1, 4-15-86)

Cross reference— Assessment of special tax bills, § 7-194(5).

Sec. 7-206. - Retention of insurance proceeds by city from damage or loss to buildings or structures as a result of fire or other casualty losses.

If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion, or other casualty loss, and if the covered claim payment is in excess of fifty (50) percent of the face value of the policy covering a building or other structure, then the following procedure shall apply:

- (1) The insured shall withhold from the covered claim payment twenty-five (25) percent of the covered claim payment and shall pay that amount to the city to deposit into an interest-bearing account. Any named mortgage on the insurance policy shall maintain priority over any obligation under this section. If a special tax bill or assessment is issued by the city for the expense or demolition of such building as a dangerous building, the monies held by the city shall be applied toward payment of special tax bill or assessment. If there is any excess, it shall be paid by the city to the insured or as the terms of the policy, including any endorsements thereto, provide.
- (2) The city shall release the proceeds and any interest which has accrued on such proceeds received under subsection (1) of this section to the insured or as the terms of the policy and endorsements thereto provide within thirty (30) days after receipt of such insurance monies, unless the city has instituted legal proceedings under the provisions of section 7-194(5). If the city has proceeded under the provisions of section 7-194(5), all monies in excess of that necessary to comply with the provisions of section 7-194(5) for the removal of the building or structure, less salvage value, shall be paid to the insured.
- (3) The city may certify that, in lieu of payment of all or part of the covered claim payment under this section, it has obtained satisfactory proof that the insured has or will remove debris and repair, rebuild or otherwise make the premises safe and secure. In this event, the city shall issue a certificate within thirty (30) days after receipt of proof to permit covered claim payment to the insured without deduction. It shall be the obligation of the insured or other person making claim to provide the insurance company with the written certificate provided for in this subsection.
- (4) No provision of this section shall be construed to make the city a party to any insurance contract.

(Ord. No. 86-2133, § 1, 4-15-86; Ord. No. 97-2925, § 1, 7-15-97)

Sec. 7-207. - Conflict with ordinances or codes.

All ordinances or codes, or parts thereof which are, or may be, in conflict herewith, are hereby repealed.

(Ord. No. 86-2133, § 1, 4-15-86)

Sec. 7-208. - Penalty.

Whenever there is in this article any ordinance, rule, or regulation, or there is an order promulgated by any officer or agency of the city under authority duly vested in him or it pursuant to this article, or any act is prohibited or is declared to be unlawful, an offense, or misdemeanor, of the doing of any act is required or the failure to do any act is declared to be unlawful, an offense, or a misdemeanor, then for any violation thereof, upon conviction of any such provision of this article, the violator shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) unless the owner of the property is not also a resident of the property in which case such fine may not exceed two thousand dollars (\$2,000.00). Violators may also be imprisoned in the city jail not exceed four (4) months, or the violator may be both fined and imprisoned as set forth herein.

(Ord. No. 97-2926, § 1, 7-15-97)

Secs. 7-209—7-215. - Reserved.

ARTICLE X. - GRADING PERMITS

Sec. 7-216. - When required; grading plan to accompany applications.

Except as otherwise provided herein, no person shall, without first obtaining a grading permit from the director of public works, alter or cause to be altered the present surface of ground:

- (1) By any cut or fill within five (5) feet of a residential property line or within twenty-five (25) feet of a commercial property line;
- (2) By any cut or fill that would permanently divert one drainage area to another drainage area;
- (3) By any cut or fill within a property that changes the grade two (2) feet or more;
- (4) By any cut or fill within a property which involves movement of more than ten (10) cubic yards of soil or other fill material.

Each application for a grading permit shall be accompanied by a grading plan showing existing and proposed contours normally at two-foot intervals. Contours at closer intervals may be required by the director of public works, if adjacent to a creek or if the topography dictates. Grading plans for parcels in excess of one (1) acre shall be prepared and sealed by a professional engineer and shall show surface water calculations for the drainage area.

The above provisions shall be waived by the director of public works in the case of residential land parcels when filling along the creek side in order to stabilize the creek bank.

(Ord. No. 87-2211, § 1, 6-9-87)

Sec. 7-217. - Applicability of article.

The provisions of this article shall not apply to any excavation, grading or filling operation or exposed ground which is being worked at the time this article goes into effect, except that any existing operation shall be completed within one (1) year from the effective date hereof provided that written notice of

intention to continue such operation for said time is filed with the director of public works within thirty (30) days after the effective date of this article. No existing operation shall be extended in area or any new operation commenced after such date without first securing a permit therefor as herein provided, and such operation shall be subject to all of the provisions of this article.

(Ord. No. 87-2211, § 1, 6-9-87)

Editor's note— This article became effective June 9, 1987.

Sec. 7-218. - Application procedure.

Application for a grading permit shall be made by the property owner or his authorized agent, and shall be made to the director of public works on forms provided by the city. An application form in duplicate shall be accompanied by a detailed statement of proposed work and the purpose thereof and why the excavation, grading or filling is clearly incidental to the improvement of the property. An application shall be accompanied by the following:

- (1) Two (2) sets of maps and plans with specifications showing proposed excavation, grading or filling. Such plans shall be prepared by and shall bear the seal of a licensed engineer, except when the engineering design for excavation or construction is unnecessary to assure compliance with the standards established by this regulation, in which event such plans may be prepared by a licensed surveyor. All such plans shall be drawn to a scale of not less than one (1) inch equals one hundred (100) feet and shall show the following:
 - a. Full name and address of owner of property;
 - b. Designation of property by street address;
 - c. The location of the premises and geographic relation to neighboring properties showing all buildings and roads within one hundred (100) feet of the boundaries of the plot on which the excavation, grading or filling is proposed;
 - d. The portion of the property that is to be excavated, graded, or filled with excavated material;
 - e. The estimated maximum quantity of material to be excavated, graded or filled, and the estimated part thereof that will be used for grading or filling;
 - f. The location of any sewage disposal system or underground utility line, any part of which is within fifty (50) feet of the proposed excavation, grading or filling area and the location of any gas transmission pipe line operated at a maximum service pressure in excess of two hundred (200) p.s.i., any part of which is within one hundred (100) feet of the proposed excavation, grading or filling area;
 - g. Existing topography and grade of the premises at a contour interval of not more than two (2) feet and the proposed final contour and finished grade elevation at intervals of not more than two (2) feet, except that whenever the existing grade is extremely steep and hilly, the contour intervals may be not more than five (5) feet if approval is first secured from the director of public works;
 - h. The location and present status of any previous permitted grading operations on the property;
 - i. The details of any drainage system proposed to be installed and maintained by the applicant, designed to provide for proper surface drainage for land, both during the performance of the work applied for and after the completion thereof;

- j. If the proposed excavation or filling is for the purpose of constructing a lake or pond, the details of the proposed dam or other structures and the embankments intended to impound the water, together with the details and locations of the proposed discharge to a valved outlet for drainage purposes, and the proposed level of any impounded water;
 - k. Details of soil preparation and of revegetation of the finished grade or of other methods of soil erosion control;
 - l. The proposed truck and equipment accessways to the work site;
 - m. The flow lines of surface water drainage, streams, and any existing farm drains, inlets and outfalls, springs, or other flowing wells, and width of stream beds or flowage lines;
 - n. A comprehensive drainage plan designed to handle safely the surface water, streams or other natural drains following heavy rain storms during grading operations;
 - o. Proposed debris basins, grass waterways and diversions;
 - p. A statement from the property owner or his agent assuming full responsibility for the performance of the operation as stated in the application. This statement shall also contain an assurance that all city property or city roads will be adequately protected.
- (2) For excavations, grading or filling of more than three thousand (3,000) cubic yards of material, a performance bond in form and with surety approved by the director of public works in such amount as he shall deem sufficient to insure completion of all work following excavation, grading or filling pursuant to the conditions of approval, provided, the city may accept a letter of credit, a certified bank officer's check or other surety from a bank or financial institution in lieu of a bond. The director of public works shall annually submit to the city manager for approval a schedule of bond requirements and rates.
- (3) An application fee to cover the cost of the permit which shall be forty dollars (\$40.00).
- (4) The applicant shall submit with the application a statement showing estimated time lapse of rough grading, finished grading, and revegetation (see time schedule in section 7-221(a)(3), below).

(Ord. No. 87-2211, § 1, 6-9-87; Ord. No. 2001-3125, § 1, 6-26-01)

Sec. 7-219. - Issuance of permit.

- (a) The director of public works shall establish the amount of the surety account (as required in section 7-218(2), above), if any, and if the application and plan comply with the standards contained in this article, he shall issue a permit in accordance therewith. In acting upon such an application and plan, the director of public works shall be guided by and shall take into consideration the public health, safety and general welfare, and particular consideration shall be given as to whether the plan will create any of the following conditions:
- (1) Interfere with surface water flow and drainage;
 - (2) Interfere with lateral supports and slopes;
 - (3) Cause excessive erosion, alteration of the natural topography and grade of land, depletion of natural deposits of topsoil and other natural materials, disturbance of the plan and wildlife, creation of nuisance and dangerous open pits, and creation of stagnant water pools.
- (b) The director of public works shall not grant a permit for any excavation which does not comply with the standards, requirements and provisions of this article, and shall have the power to issue orders to stop any grading, filling or excavating work being done in violation of this article, or in violation of

the terms of any permit issued hereunder. The director of public works may impose such conditions or requirements upon the issuance of a permit as he deems necessary or proper to assure faithful compliance with this article.

(Ord. No. 87-2211, § 1, 6-9-87)

Sec. 7-220. - Permit expiration.

A permit issued under this section shall expire one year from the date of issuance, except that the director of public works may, for due cause shown, extend any permit for a one-year period after complete review of all plans and examination of work accomplished and proposed, provided application is made at least thirty (30) days prior to the expiration date of such permit. In no case shall a permit be extended if the provisions of this regulation have not been complied with, provided, however, that in connection with continuing operations, the director of public works may waive, for a one-year period, those requirements which would make continuing operations impractical.

(Ord. No. 87-2211, § 1, 6-9-87)

Sec. 7-221. - Standards.

(a) *Approval.* Approval of plans and specifications for excavation shall be based upon the following standards:

- (1) All excavations, grading, or filling shall have a finished grade not to exceed three (3) to one (1), except that embankments less than three (3) feet in height shall be exempt therefrom if properly mulched and seeded. Steeper grades are allowed if the excavation is through rock or the excavation or fill is protected by a properly designed head wall or toe wall approved by the director of public works. If such walls exceed a height of six (6) feet, a protective fence or barrier shall be required.
- (2) Grading plans for more than one (1) acre of soil shall provide for sediment basins, diversions, grass waterways, mulching and seeding whenever necessary to avoid damage to adjoining properties, roads, ditches and storm sewers.
- (3) Time schedules for grading operations shall be categorized as six (6) months or less; twelve (12) months or less; and twelve (12) months or more, depending upon the amount of time that the soil shall be exposed or subjected to erosion under normal weather conditions for the season.
- (4) Truck and equipment accessways to the site of the operation shall be located so as to minimize danger to traffic and nuisance to surrounding properties. Such access shall be kept either wet or oiled or treated with a chemical dust deterrent, or paved, to the extent necessary to prevent any dust nuisance to surrounding properties. All such accessways shall be clearly marked with signs and shall be posted approximately two hundred (200) feet distant from such access ways or other traveled areas. Such signs shall read, "Caution—Trucks Entering" and be of size, type, coloring, lettering, and format used by the street department of the city. Debris, soil and other materials shall be removed daily from public streets and sidewalks.
- (5) The finished grade to [shall] provide that surface water from drainage areas in excess of two (2) acres that cross grades steeper than eight (8) to one (1) shall be intercepted with diversions and lowered to a stable outlet constructed with concrete flumes or pipe.

The adjoining ground to the concerned plot shall be provided with protection from accelerated and increased surface water, silt from erosion, and any other consequences of erosion. Where it is necessary for the protection of such property to enter upon private property for the purpose of taking appropriate protecting measures, the applicant shall obtain consent from the owner of

such private property for such purpose, and if he cannot obtain such consent, the city shall take appropriate legal steps, to include eminent domain, to allow entry upon the private premises solely for the purpose of making the property safe or controlling a water course. The applicant shall, at its own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the grading and shall be responsible for all damage to public or private property or highways resulting from its failure to properly protect and carry out such grading.

- (6) All lots shall be seeded and mulched or sodded within ten (10) days after completion of the work or expiration of the permit, whichever occurs first, and all lots shall be seeded and mulched or sodded before an occupancy permit shall be issued except that an occupancy permit may be issued by the building commissioner in cases of undue hardship because of unfavorable ground conditions.
- (7) Protective devices will be used to protect tree trunks from being scarred by machinery and building materials.
- (8) Wells or revetments will be constructed around trees where the grade is made higher or lower, respectively.
- (b) *Operations.* All grading operations shall be restricted as follows:
 - (1) Processing of any kind on the excavation site or the erection or use of any structure thereon, such as, but not limited to, hoppers, washers, crushers or sheds, except simple screens to remove oversize aggregates during loading, shall be deemed a commercial use and are hereby prohibited except upon the issuance of a special permit by the director of public works.
 - (2) Except as otherwise provided, no storage area may be created or maintained in connection with an excavation, grading or filling operation, except that, under a duly issued permit, an owner or his contractor shall be allowed temporarily to store such material incidental to the operation, but such storage shall not be for a longer term than the term of the permit issued.
 - (3) It shall be unlawful to keep or store any trucks, machinery or equipment on any property or street after completion of the grading operation. All such trucks, machinery or equipment shall be removed from such property within ten (10) days after completion of the work or expiration of the permit, whichever occurs first.
 - (4) The applicant shall notify the director of public works of the following, when and as completed:
 - rough grading
 - finished grading before seeding
 - all reestablishment and construction work

The director of public works, upon such notification, shall make field inspections on the site before rough grading, after final grading, before seeding and at completion to determine if work in progress and the completed operation have been performed in accordance with this article.

- (5) All pits, quarries, holes or other excavated areas, shall be refilled with—and no new filling operation shall be conducted with any material except—clear, nonburnable fill containing no trash, refuse or harmful matter, and such excavated areas and new filling operations shall be graded to the level of adjoining property or to an elevation from which all surface and other waters collected therein may find natural drainage therefrom. Stumps and logs may be used for

fill material but only in accordance with the standards and requirements established by the director of public works. Excess material shall either be removed from the premises or leveled and covered with topsoil and seeded, as herein provided.

- (6) It shall be unlawful to change, modify, abolish, or alter any of the debris basins, grass waterways, diversions, and other soil erosion control structures as permitted in a grading permit, except with the prior consent and written approval of the director of public works.
- (7) Gullies which may develop due to erosion which have a depth or width of more than nine (9) inches shall be repaired and reseeded or resodded.

(Ord. No. 87-2211, § 1, 6-9-87)

Sec. 7-222. - Inspection and violation.

- (a) *Inspections.* By applying for a grading permit, the applicant consents to the City of Ferguson inspecting the proposed graded plot and all work in process.
- (b) *Corrections.* All violations shall be corrected within the time limit set forth by the director of public works specified in the issuance of a written notice to correct. All persons failing to comply with such notice shall be deemed in violation of this article.
- (c) *Penalties.* Any person, firm or corporation found guilty of violating the provisions of this article shall, upon conviction thereof, be subject to the penalty provided in chapter 1, section 1-15, of the Municipal Code of the City of Ferguson.
- (d) *Appeals.* Any person, firm or corporation denied a grading as herein provided, shall have the right to appeal such denial to the board of adjustment within thirty (30) days of the date of such denial.

(Ord. No. 87-2211, § 1, 6-9-87; Ord. No. 96-2814, § 1, 1-23-96)

Secs. 7-223, 7-224. - Reserved.

ARTICLE XI. - STORMWATER MANAGEMENT

Sec. 7-225. - Stormwater quality—Best management practices.

- (a) *Purpose and intent.* Two (2) consequences of construction and development are increased runoff created by the changed properties of ground surface and the rate of discharge of this increased runoff. These are both of great relevance to stormwater. The natural condition of the land before development is in relative balance with the natural capacity of the receiving creeks. Normally the undeveloped conditions provide greater permeability and longer times of concentration. By modification of the ground surface from the irregular, pervious, and vegetation-covered, the areas are changed to more impervious, more quickly drained and., in some cases, denuded of vegetation. It is the policy of the city to protect and promote the public, health, safety and general welfare. The management of stormwater will reduce the erosion on land and creek, channels, will reduce the possibility of damage to public and private property, and will assist in the attainment and maintenance of water quality standards, and will preserve the environmental quality of the watercourses in the city.
- (b) *Requirements—Creekbank setback.* New development along natural watercourses shall have residential lot lines, commercial or industrial improvements, parking areas and driveways setback a minimum of twenty-five (25) feet from the top of the existing stream bank. This is not meant to prevent access across creeks. Except as otherwise provided herein or as allowed by the city, the section of land between a natural watercourse and lot lines shall be designated as common ground and drainage easement to be maintained by the trustees or homeowners association of the

subdivision within all types of residential developments. In lieu of the common ground requirement, the section of land between the natural watercourse and twenty-five (25) feet from the top of the bank can be (i) private property with an easement dedicated to the trustees or homeowners association requiring maintenance of the areas as the responsibility of the trustees or homeowners association, (ii) private property subject to a conservation easement in favor of an organization or land trust dedicated to environmental protection or land preservation such as Trailnet, Inc., the Open Space Council for the St. Louis Region or similar organization, (iii) set aside in a stream bank mitigation program approved by the United States Army Corps of Engineers under the provisions of the Clean Water Act. All developments shall maintain a setback minimum of fifty (50) feet from the top of the existing bank to any building structure requiring a construction permit that necessitates excavation or also requires a foundation. Commercial and industrial areas shall have creek areas dedicated as drainage easements. Notwithstanding the foregoing setback requirements, an applicant may obtain a variance to develop within the stream buffer area from the city provided the applicant is able to demonstrate that the water quality and stream morphology will not be adversely affected or adequate mitigation is provided to offset such adverse affects. Mitigation may include, but not be limited to the following: (i) installing additional erosion and sediment control; (ii) if the stream has the potential for lateral movement, installing stream stabilization practices within the stream; (iii) for those sites where vegetation does not exist, establishing vegetation; and/or (iv) additional tree planting.

- (c) *Post construction—Water quality.* In order to preserve the quality of water in natural streams it is important to provide a mechanism to remove contaminants on the site prior to water entering the natural water course. Typically called post construction BMPs (best management practices), these methods identify a critical water quality volume that will need to receive a treatment to remove certain contaminants. These improvements whether structural or non-structural will remain in place after the construction is completed. The concepts introduced in the following paragraphs are taken from the Georgia Stormwater Management Manual, Volume 2, August, 2001. Nothing in the following paragraphs shall change or replace any of the city's detention ordinances.

- (1) *Water quality volume (WQv).* The water quality volume (denoted as the WQv) is the storage needed to capture and treat the runoff from ninety (90) percent of the recorded daily rainfall events. In numerical terms, it is equivalent to 1.14 inches of rainfall multiplied by the volumetric runoff coefficient (Rv) and site area. The WQv is directly related to the amount of impervious cover created at a site. A minimum WQv of 0.2 inches per acre shall be met at all sites.

Redevelopment projects can appeal to the planning and zoning commission to reduce or eliminate WQv if it can be shown that there are stormwater enhancements being provided.

- (2) As a basis for determining water quality treatment volume the following assumptions may be made:
- a. The water quality volume WQv for offsite areas is not required. The following equations are used to determine the storage volume, WQv (in acre-feet of storage):

$$WQv = [(P)(Rv)(A)]/12$$

$$P = 1.14 \text{ inches of rainfall}$$

Where: WQv = water quality volume (in acre-feet)

$$Rv = 0.05 + 0.009(I) \text{ where } I \text{ is percent impervious cover}$$

A = area in acres

- b. Measuring impervious cover: The measured area of a site plan that does not have vegetative or permeable cover shall be considered total impervious cover.
 - c. Multiple drainage areas: When a project contains or is divided by multiple drainage areas, the WQv volume shall be addressed for each drainage area.
 - d. Offsite drainage areas: The WQv shall be based on the impervious cover of the proposed site. Offsite existing impervious areas may be excluded from the calculation of the water quality volume requirements.
 - e. BMP treatment: The final WQv shall be treated by an acceptable BMP(s) from the list presented in Section 2.
 - f. Subtraction for non-structural practices: When non-structural practices are employed in the site design, the WQv volume can be reduced in accordance with the conditions outlined in Section 3.
 - g. Extended detention for water quality volume: The water quality requirements can be met by providing a twenty-four-hour draw down of a portion of the water quality volume (WQv) in conjunction with a stormwater pond or wetland system.
- (d) *Acceptable urban BMP options.* This section sets forth five (5) acceptable groups of BMPs that can be used to meet the water quality volume criteria (WQv). The design and selection of these BMPs should comply with the Georgia Stormwater Management Manual, as prepared by the State of Georgia.

Where the city's criteria or requirements are more stringent, then they shall govern. Adapting to local Missouri environment and natural conditions should be expected but shall be as approved by the city or a higher authority.

- (1) The acceptable BMP designs are assigned into six (6) general categories for stormwater quality control (WQv):

BMP Group 1 - stormwater ponds.

BMP Group 2 - stormwater wetlands.

BMP Group 3 - infiltration practices.

BMP Group 4 - filtering practices.

BMP Group 5 - open channel practices.

See Section 1.3 of the Georgia Stormwater Management Manual for additional BMP options. Section 3 of the Georgia manual has detailed descriptions of each control.

- (2) To be considered an effective BMP for stand-alone treatment of WQv, a design shall be capable of:
- a. Capturing and treating the required water quality volume (WQv).
 - b. Removing eighty (80) percent of the TSS.
- (3) A combination of BMPs and/or credits is normally required at most development sites to meet all three (3) stormwater sizing criteria.
- a. *BMP Group 1. Stormwater ponds:* Practices that have a combination of permanent pool, extended detention or shallow wetland equivalent to the entire WQvs include:

P-1 micropool extended detention pond.

P-2 wet pond.

P-3 wet extended detention pond.

P-4 multiple pond system.

P-5 pocket pond.

- b. *BMP Group 2. Stormwater wetlands:* Practices that include significant shallow wetland areas to treat urban stormwater but often may also incorporate small permanent pools and/or extended detention storage to achieve the full WQv include (Modification of existing wetland areas will require a Corps 404 permit):

W-1 shallow wetland.

W-2 ED shallow wetland.

W-3 pond/wetland system.

W-4 pocket wetland.

Wetlands shall not be used for control of water quantity (i.e. the flood protection volume).

- c. *BMP Group 3. Infiltration practices:* Practices that capture and temporarily store the WQv before allowing it to infiltrate into the soil over a two-day period include:

I-1 infiltration trench.

I-2 infiltration basin.

Infiltration practices will be allowed on sites where it is proven that infiltration will work. Percolation rates shall be determined for proper use.

- d. *BMP Group 4. Filtering practices:* Practices that capture and temporarily store the WQv and pass it through a filter bed of sand, organic matter, soil or other media are considered to be filtering practices. Filtered runoff may be collected and returned to the conveyance system. Design variants include:

F-1 surface sand filter.

F-2 underground sand filter.

F-3 perimeter sand filter.

F-4 organic filter.

F-5 pocket sand filter.

F-6 bioretention.*

F-7 proprietary filtering system.

* May also be used for infiltration.

A maintenance agreement and maintenance schedule shall be required.

e.

BMP Group 5. Open channel practices: Vegetated open channels that are explicitly designed to capture and treat the full WQv within the dry or wet cells formed by creekdams or other means include:

1. Dry swale.
2. Wet swab.
3. Filter strips.

Open channel practices shall be designed with the proper plantings. Wet swales shall be designed to drain out over time.

(e) *When section not applicable.* The provisions of this section shall not apply to the extent that any owner has obtained a variance from such requirements as allowed under subsection (b) of this section. Additionally, the provisions of this section shall not apply to the extent that the new construction or development is merely replacement of existing structures which were destroyed by fire or a natural disaster as long as:

- (1) No subdivision of land takes place;
- (2) The original structure's footprint, location on the lot and size is not changed; and
- (3) No new construction or additions are added beyond mere replacement or rebuilding of the destroyed structure.

(Ord. No. 2008-3349, § 1, 3-11-08)

ARTICLE XII. - COMMERCIAL EXTERIOR APPEARANCE CODE^[10]

Footnotes:

— (10) —

Editor's note—Ord. No. 2008-3349, § 1, adopted March 11, 2008, renumbered the former Art. XI, §§ 7-235—7-243, as Art. XII as set out herein.

Sec. 7-235. - Purpose.

The general purpose of this chapter is to protect the public health, safety, and the general welfare of the people of the city. These general objectives include, among others, the following specific purposes:

- (1) To protect the character and stability of nonresidential areas within the city.
- (2) To provide minimum exterior standards for the maintenance of existing nonresidential buildings and to thus prohibit the spread of deterioration and blight.
- (3) To thus preserve the taxable value of land and buildings throughout the city.

(Ord. No. 97-2909, § 1, 5-27-97)

Sec. 7-236. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory shall mean a detached structure subordinate to the main or principal structure and located on the same lot, the use of which is customary to the main building.

Director of public works shall mean the director of public works or his authorized representative.

Donation receptacle shall mean any receptacle detached from the main building and used solely for the collection of clothing, furniture, housewares, small electrical appliances, household textiles, toys and other small household items.

Glazing is the surface, usually made of glass, of a glazed opening.

Nonresidential building shall mean a structure not designed for residential occupancy.

Premises shall mean a lot, plot, or parcel of land including the buildings or structures thereon.

Structure shall mean that which is built or constructed.

(Ord. No. 97-2909, § 1, 5-27-97; Ord. No. 2007-3308, § 1, 5-8-07)

Sec. 7-237. - Minimum standards.

(a) *Nonresidential buildings or structures.*

(1) Exterior property areas.

- a. *Sanitation.* All exterior property and premises shall be maintained in a clean, safe, and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.
- b. *Trash containers.* Every building shall be required to have sufficient and proper trash containers, which shall be sufficiently sized to keep the trash contained therein and which shall be emptied as needed to ensure that there is no odor that would be offensive to the public. In addition, all trash containers shall be required to be kept in an enclosure sufficient to shield them from public view. Prior to construction of such enclosure, the appropriate permit must be obtained from the public works department.
- c. *Grading and drainage.* All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.
- d. *Exception.* Water retention areas and reservoirs approved by the director of public works and/or the St. Louis Metropolitan Sewer District.
- e. *Sidewalks and driveways.* All sidewalks, walkways, stairs, driveways, parking spaces, and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.
- f. *Rat harborage.* All structures and exterior property shall be kept free from rat infestation. Where rats are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.
- g. *Exhaust vents.* Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors, or other gaseous or particular wastes directly upon abutting or adjacent public or private property or that of another tenant.
- h. *Accessory structures.* All accessory structures, including detached garages, fences, and walls, shall be maintained structurally sound and in good repair.

(2) Exterior structure(s).

- a. *General.* The exterior of a structure shall be maintained in good repair, structurally sound, and sanitary so as not to pose a threat to the public health, safety, or welfare.

- b. *Exterior painting.* All wood and metal surfaces, including but not limited to, window frames, doors, door frames, cornices, porches and trim shall be maintained in good condition. Peeling, flaking, and chipped paint shall be eliminated and surfaces repainted.
- c. *Street numbers.* Each structure to which a street number has been assigned shall be displayed in a position easily observed and readable from the public right-of-way. All numbers shall be in Arabic numerals and shall meet the size and location requirements of the city's building code and fire code.
- d. *Structural members.* All exterior structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.
- e. *Foundation walls.* All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rats.
- f. *Exterior walls.* All exterior walls shall be free from holes, breaks, loose, or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.
- g. *Roofs and drainage.* The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters, and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.
- h. *Decorative features.* All cornices, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
- i. *Overhang extensions.* All canopies, marquees, signs, metal awnings, fire escapes, standpipes, exhaust ducts, and similar overhang extensions shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- j. *Stairways, decks, porches, and balconies.* Every exterior stairway, deck, porch, and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.
- k. *Chimneys and towers.* All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- l. *Handrails and guards.* Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- m. *Window and door frames.* Every window, door, and frame shall be kept in sound condition, good repair and weathertight.
 - 1. *Glazing.* All glazing materials shall be maintained free from cracks and holes. Any crack or hole which does not project past ten (10) percent of either the length or width of the window shall be excluded. Minor holes may be excluded at the discretion of the public works director.
 - 2.

Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware. This section shall not apply to existing windows that are not capable of being opened without doing damage to the window or the surrounding structure. Any remodeling of an area of any structure which includes existing windows shall be completed in a fashion which shall result in the windows thereafter being easily openable and capable of being held in position by window hardware.

- n. *Doors.* All exterior doors and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units and guestrooms shall tightly secure the door.
 - o. *Basement hatchways.* Every basement hatchway shall be maintained to prevent the entrance of rats, rain, and surface drainage water.
 - p. *Guards for basement windows.* Every basement window that is openable shall be supplied with an approved barrier or other approved protection against the entry of rats.
- (b) *Nonresidential grounds.* Every yard, court, vent passageway, driveway, sidewalk, parking lot, and other portion of the premises on which the building stands shall be free of debris, weeds, and other safety hazards.
- (1) *Grounds.* Lawn areas and landscaping shall be properly maintained and shall be replaced if deteriorated or dead. The director of public works may also require screening or landscaping around refuse containers to assure the desirable character of the premises.
 - (2) *Fences.* Every fence shall be kept in a reasonably good state of maintenance and repair.
 - (3) *Parking areas.* The parking lot shall be maintained in a manner to keep it as free as practicable from dirt and mud and other loose particles and snow and ice shall be promptly removed by the operator. All adjacent sidewalks shall be kept free from dirt, ice, sleet, and snow and in a safe condition for use by pedestrians. All signs, markers, or any other methods used to indicate direction of traffic movement and location of parking spaces shall be maintained in a neat and legible condition. Likewise, any walls, trees, and shrubbery, as well as surfacing of the parking area, shall be maintained in good condition throughout its use for parking purposes and the director of public works shall have the authority to prohibit the use of the area for parking purposes unless and until proper maintenance, repair or rehabilitation is completed.
 - (4) *Donation receptacles.* Donation receptacles shall only be kept if such receptacles are permitted by express authorization in this Code, by site plan approval or by special use permit. All donation receptacles shall be maintained in a neat and sanitary condition and shall comply with the following requirements:
 - a. All donation receptacles shall be located behind or at the rear of the main commercial structure on the premises. All receptacles shall be adequately secured on an adequate foundation or paved surface.
 - b. All donation receptacles shall be located at least one hundred (100) feet from any public right-of-way. At least one parking space will be provided for individuals depositing donations at the receptacle.
 - c. All receptacles shall be maintained in such a condition so that the interior of the receptacle is fully enclosed and no materials are visible from any point outside the receptacle.
 - d. There shall be no storage of donated items outside of the provided receptacle.
 - e. Each receptacle shall be emptied and materials collected at least once per week or immediately upon the receptacle reaching capacity whichever occurs earlier

- f. No food, waste or hazardous materials shall be collected.
- g. Illegally dumped items shall be picked up nightly, or as required, in order to maintain a neat and orderly appearance. Illegally dumped items and food, waste or hazardous materials improperly dumped in or near the receptacle shall be properly disposed of immediately by the property owner.

h. No sorting, distribution or sale of collected materials may occur on the premises.

(Ord. No. 97-2909, § 1, 5-27-97; Ord. No. 2007-3308, § 2, 5-8-07; Ord. No. 2009-3417, § 2, 12-8-09)

Sec. 7-238. - Enforcement.

It shall be the duty of the director of public works to enforce the provisions of this article. The code official is authorized and directed to make inspections only to determine whether buildings, structures, or premises located within this city conform to the requirements of this chapter. Inspections of property under this article shall be made after the effective date of this article under the following conditions:

- (1) Whenever there is a change of ownership, occupancy, or tenancy.
- (2) Where there is exterior deterioration of a building.

For the purpose of making such inspections, the director of public works or his agent is authorized to enter upon the premises to examine the structure and ground conditions.

(Ord. No. 97-2909, § 1, 5-27-97)

Sec. 7-239. - Noncompliance with chapter.

(a) *Notice of defects.* Whenever the director of public works determines that there are reasonable grounds to believe that there has been a violation of any provisions of this chapter, he will give notice such alleged violation to the person or persons responsible therefore which shall:

- (1) Be in writing;
- (2) Contain a statement of the reason why it is being issued;
- (3) Contain an outline of remedial action which, if taken will effect compliance with the provisions of this article;
- (4) Allow a reasonable time for the performance of any act it requires;
- (5) Be served upon the owner, his agent, the occupant, or tenant of the premises as the case may require. Such notice shall be deemed to be properly serviced upon such owner, agent, occupant, or tenant, if a copy is:
 - a. Served upon him personally;
 - b. Sent by registered or certified mail to his last known address;
 - c. Posted in a conspicuous place in or about on the premises affected by notice.

Upon a determination by the director of public works that the violations of this article have been corrected, he shall issue a letter of compliance to the person or persons who had previously been issued the violation notice that said violations have been corrected.

(b) *Remedy of defects.* The owner of any structures or premises shall be given not less than thirty (30) days from the issuance of the notice in which to remedy the condition herein specified, except for the following two (2) conditions as stated below; provided, however, that the director of public works may, due to extenuating circumstances, extend the time for compliance. At the time when the violations

have been allegedly brought into compliance the inspector shall make a complete inspection to note that all violations have been brought into compliance and that no new violations have come into existence.

- (1) Condition A: Reglazing. Once notice is served for replacement of glazing, the opening must be boarded within seventy-two (72) hours. The total time for replacement of the glazing material cannot exceed twenty-one (21) days. In addition, the board-up shall be painted in a manner that matches the existing color scheme of the building. No writing, graphics, or advertising of any kind shall be allowed on the board-up.
- (2) Condition B. If, in the opinion of the director of public works, the property is in such a state of disrepair that it potentially endangers the life, limb, or property of the public, then he shall take whatever action he deems necessary to remove the danger.

It shall be unlawful for any person to fail to comply with the terms of the notice of violations.

- (c) *Transfer of ownership for noncomplying buildings.* It shall be unlawful for the owner of any building upon whom a notice of violation has been served, to sell, transfer, mortgage, lease, or otherwise dispose of said building to another person until the provisions of the notice of violation have been complied with, or until such owner shall first furnish to the grantee, transferee, mortgagee, or lessee, a true copy of the notice of violation, issued by the director of public works and shall furnish to the director of public works, a signed and notarized statement from the grantee, transferee, or mortgagee, acknowledging the receipt of such notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such notice of violation within the time provided in such notice.

(Ord. No. 97-2909, § 1, 5-27-97)

Sec. 7-240. - Violation; penalties.

Any person, firm, or corporation violating any of the provisions of this chapter shall, upon conviction thereof, be subject to the penalty provided in chapter 1, section 1-15 of the Municipal Code of the City of Ferguson.

(Ord. No. 97-2909, § 1, 5-27-97)

Sec. 7-241. - Jurisdiction of building board of appeals over nonresidential buildings.

Sections 7-195 and 7-201 setting forth the jurisdiction of the building board of appeals and judicial review are hereby incorporated by reference and the building board of appeals shall have jurisdiction over nonresidential buildings under this article, using the procedures as set forth in sections 7-195 and 7-201.

(Ord. No. 97-2909, § 1, 5-27-97)

Sec. 7-242. - Exterior appearance compliance for nonresidential buildings.

On change of occupancy or ownership, it shall be unlawful for any person, firm, or corporation to hereafter occupy, or for any owner or agent thereof to permit the occupation of a nonresidential building or addition thereto, or a part thereof, for any purpose until a certificate of exterior appearance compliance has been issued by the department of public works. The certificate of compliance so issued shall state that the applicant complies with all of the provisions of this article. This article shall not apply to any nonresidential occupancy in existence at the time of the adoption of this article. Such certificate of exterior compliance shall not be valid unless all required business licenses and other required permits have been issued for the premises.

(Ord. No. 97-2909, § 1, 5-27-97)

Sec. 7-243. - Application for certificate of exterior compliance for nonresidential buildings.

- (a) An application for a certificate of exterior appearance compliance for nonresidential buildings shall be made on change of occupancy or ownership to the department of public works and the applicant shall provide the following information:
- (1) The name of the applicant which shall be accompanied by applicant's birth certificate, driver's license, or other form of identification with a photo of the applicant upon it.
 - (2) If the applicant is not the current owner of the property, the applicant shall present written authorization from the owner of record authorizing applicant to make application for a certificate of exterior appearance compliance for a nonresidential building.
 - (3) The application fee of one hundred dollars (\$100.00) shall be paid at the time of application.
- (b) An inspection of the property may also occur on complaint.

(Ord. No. 97-2909, § 1, 5-27-97; Ord. No. 2001-3125, § 1, 6-26-01)

Chapter 9 - CABLE TELEVISION REGULATIONS

ARTICLE I. - IN GENERAL

Sec. 9-1. - Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meanings given in this section.

Access channels shall mean those channels which, by terms of this chapter and the franchise agreement, are required to be kept available by the grantee for partial or total dedication to public access, educational access, local government access and leased access.

Additional service shall mean any communications service provided by the grantee over its system for which a special charge is made based on program or service content, time or spectrum space usage, and shall include all services offered by the grantee that are not included within the "basic service."

Basic service shall mean all basic communications provided by the grantee including the delivery of broadcast signals and programming originated over the system covered by the regular monthly charge, or levels of charges, paid by all subscribers.

Cable television system, hereinafter referred to as "cable TV system" or "system," shall mean a nonbroadcast system of coaxial cable or other electrical conductors and equipment used or to be used primarily to distribute television or radio signals directly or indirectly off-the-air or from satellite relay and transmit them to subscribers for a monthly fee.

Class IV signal shall mean a signal path provided by a cable television system to transmit signals of any type from a subscriber terminal to another point in the cable television system.

FCC shall mean the Federal Communications Commission and any legally appointed successor agency exercising regulatory authority over cable television.

Franchise shall mean the nonexclusive rights granted pursuant to this ordinance to construct and operate a cable TV system within all or a specified area in the city.

Franchise fee shall mean all charges imposed for a franchise in the city.

Grantee shall mean any person granted a franchise pursuant to this chapter and under the granting franchise ordinance and any lawful successor, transferee or assignee.

Gross revenue shall mean all revenue received by the grantee, including income from pay cable, advertising and leased access, in connection with the operation of a cable TV system in the city; provided, however, that this shall not include any taxes or copyright fees on services furnished by the grantee herein imposed on any subscriber or use by the state, local or other government unit and collected by the grantee on behalf of such governmental unit.

Monitoring shall mean the observation of a communication signal or the absence of a signal when the observer is neither the subscriber nor the programmer, whether the signal is observed by visual or electronic means for any purpose whatsoever; provided, however, that monitoring shall not include system-wide, nonindividually addressed sweeps of the system for purposes of verifying the integrity of the system, controlling return-path transmissions or billing for pay services.

North Area Cable Television Authority or *NACTA* shall mean the municipalities participating in a common franchising process, as defined in section 9-3(a).

Street shall mean the entire width and length of any right-of-way, easement or thoroughfare dedicated to the public including streets, avenues, boulevards, sidewalks, alleys, places and ways, including public utility easements.

Subscriber shall mean any person receiving either basic service or additional service from the grantee under the schedule of charges filed with and/or approved by the city.

User shall mean any person or persons who utilize the grantee's cable television system for any purpose other than the reception of basic service, including, but not limited to, the production and distribution of information on the local governmental, educational and public access channels, or the use under channel lease, or otherwise, of the grantee's facilities to transmit or receive pay television, alarm, facsimile, data or other communications service.

(Code 1973, § 57.010(B))

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 9-2. - Franchise territory.

The area for which this nonexclusive franchise is granted shall encompass the entire corporate limits of the city as now exists and to any area henceforth added thereto during the term of this nonexclusive franchise.

(Code 1973, § 57.030(A))

Sec. 9-3. - Administrative authority.

(a) *Established*. The ordinance from which this chapter is derived is one (1) of several substantially identical regulatory ordinances of Berkeley, Ferguson, Dellwood, Normandy, Cool Valley, Calverton Park and the Normandy Municipal Council area who were recipients of the grantee's application to

provide cable television service in the county. The above-mentioned municipalities will enact franchise ordinances delegating administrative responsibility and authority under such regulatory ordinances to the North Area Cable Television Authority (NACTA).

- (b) *Purpose.* The purpose of NACTA is to obtain the most reasonable subscriber rates for the highest possible level of service for the residents of its member municipalities. NACTA shall administer all administrative responsibilities assigned to it in this chapter on behalf of the municipalities mentioned in subsection (a). The grantee shall, when reasonable notice is given, appear at all public hearings scheduled by NACTA to review and/or evaluate the grantee's activities or performance.
- (c) *Board of directors.* In order to fulfill the administrative responsibilities delegated to it in this chapter, NACTA shall appoint a board of directors with such duties assigned to it pursuant to the franchise ordinances, the regulatory ordinances, and other agreements enacted by the member municipalities of the NACTA.

(Code 1973, § 57.090(A))

Sec. 9-4. - Franchise application procedure.

- (a) *Competitive petition.* The following regulations shall apply to ensure competitive petitioning of the council for a franchise:
 - (1) Any person seeking a franchise under this chapter shall petition the council therefor and shall specifically designate the proposed services.
 - (2) The petitioner shall provide complete information as to its legal, financial, technical, character and other qualifications and its proposed construction arrangements, which shall include an intended schedule of the time within which it proposed to extend service to the area petitioned for, on such form as may be specified by NACTA.
 - (3) To the extent practical, the council or its delegated authority shall permit and solicit competing proposals and may award or deny one (1) or more franchises within the city.
 - (4) The petitioner shall appear upon request at all public hearings or committee meetings set by the council to consider his petition.
 - (5) Franchise options to be discussed and agreed upon by the city and grantee prior to inclusion of the options in the franchise agreement include, but are not limited to:
 - a. Franchise territory;
 - b. Overhead or underground installation of the cable system equipment;
 - c. System design;
 - d. Two-way capacity of system;
 - e. Channel uses;
 - f. Administration of access channels; and
 - g. Production facilities of the grantee.
 - (6) The city may participate in the NACTA as a joint effort to solicit bids.
- (b) *Acceptance, effective date of franchise.* The following regulations shall apply pertaining to the acceptance and effective date of franchises:
 - (1) No franchise granted pursuant to this chapter shall become effective for any purpose unless and until written acceptance thereof shall have been filed with the city administration, duly executed by the proper officers of the grantee. Written acceptance, which shall be in the form and

substance approved by the city attorney, must contain in addition to any other matters included, the following express representations by the grantee:

- a. It has carefully read the terms and conditions of this chapter and the franchise agreement and accepts all of the terms and conditions imposed by this chapter and the franchise agreement and agrees to abide by the same;
 - b. It further acknowledges by the acceptance of the franchise that it has carefully read the terms and conditions of this chapter and expressly waives any claims that any provisions of this chapter are unreasonable, arbitrary or void; and
 - c. By accepting the franchise, it acknowledges that it has not been induced to accept same by any promise, verbal or written, by or on behalf of the city or by any third person regarding any term or condition of this chapter or by the franchise agreement expressed therein. The grantee further promises that no promise or inducement, oral or written, has been made to any city employee or official regarding receipt of the cable system franchise.
- (2) The written acceptance shall be filed by the grantee not later than 12:01 p.m. of the thirtieth day next following the granting of such franchise. In default of the filing of such written acceptance as required in this section, the grantee shall be deemed to have rejected and repudiated the franchise. Thereafter, the acceptance of the grantee shall have no rights, remedies or redress unless and until the council, by resolution, shall determine that such acceptance be received and then upon such terms and conditions as the council may impose.

(Code 1973, § 57.070)

Sec. 9-5. - Rights of individuals.

- (a) Neither the grantee nor the city shall tap, or arrange for the tapping, or permit any other person to tap either expressly or impliedly through their knowledge, any cable, line, signal input device, or subscriber outlet or receiver for any purpose whatsoever.
- (b) Neither the grantee nor the city shall monitor, or arrange for the monitoring, or permit any person, expressly or impliedly through their knowledge, to monitor any cable, line, signal input device, or subscriber outlet or receiver for any purpose whatsoever, without the specific authorization of the council, after a public hearing which shall comply with the notice provisions of the city's charter.
- (c) No cable, line, wire, converter or other piece of equipment owned or leased by the grantee shall be installed by the grantee without first securing the written permission of the owner of any property or easement involved. If such permission is later revoked, whether by the original or a subsequent owner, the grantee shall remove forthwith any of its equipment which is both visible and movable, and shall promptly restore the property or easement to its original condition at the grantee's expense.
- (d) No landlord shall interfere with the installation of cable television facilities upon his property or premises, except that a landlord may require:
 - (1) That the installation of cable television facilities conforms to such reasonable conditions as are necessary to protect the safety, functioning and appearance of the premises, and the convenience and well-being of other tenants;
 - (2) That the cable television company or the tenant or a combination thereof bear the entire cost of the installation, operation or removal of such facilities; and
 - (3) That the cable television company and the tenant agree to indemnify the landlord for any damage caused by the installation, operation or removal of such facilities.

- (e) No landlord shall demand or accept payment from any tenant in any form in exchange for permitting cable television service on or within his property or premises, or from any cable television company in exchange therefor except as may be necessary to compensate such landlord for any direct costs or expenses incurred in connection with the installation of cables.
- (f) No landlord shall discriminate in rental charges or otherwise between tenants who receive cable television service and those who do not.
- (g) A grantee shall not sell, or otherwise make available, lists of names and addresses of its subscribers, or any list which identifies by name subscriber viewing habits to any person, agency or entity, for any purpose whatsoever without the specific authorization of the city.
- (h) The grantee and the city shall maintain constant vigilance with regard to possible abuses of the right of privacy or other human rights of any subscriber, programmer or general citizen resulting from any device or signal associated with the cable system.

(Code 1973, § 57.080; Ord. No. 83-1992, § 1, 6-14-83)

Sec. 9-6. - Ownership of facilities.

- (a) In order that the city may exercise its option to take over the facilities and property of the cable TV system authorized upon expiration or forfeiture of the rights and privileges of the grantee under its franchise, as is provided for in this chapter, the grantee shall not make, execute or enter into any deed, deed of trust, mortgage, conditional sales contract or any loan, lease, pledge, sale or gift of property, real or personal, of the cable TV business without prior approval of the council upon its determination that the transaction proposed by the grantee will not be inimical to the rights of the city under its franchise. Provided, however, that this section shall not apply to the disposition of worn out or obsolete facilities or personal property in the normal course of carrying on the cable TV business.
- (b) Except as provided for in subsection (a) above, the grantee shall at all times be the full and complete owner of all facilities and property, real and personal, of the cable TV business.

(Code 1973, § 57.090(B))

Sec. 9-7. - Right of intervention.

The grantee agrees not to oppose the intervention by the city or NACTA in any suit or proceeding to which the grantee is a party.

(Code 1973, § 57.090(C))

Sec. 9-8. - Violations; penalties.

- (a) The following actions by any person, corporation or unincorporated association shall be unlawful and subject to criminal penalty as described in subsection (b):
 - (1) The unauthorized connection, whether physically, electronically, acoustically, inductively or otherwise with any part of system facilities within the municipality for the purpose of taking or receiving television or radio signals, pictures, programs or sounds, or for the purpose of enabling others to receive such signals, pictures, programs or sounds;
 - (2) The wilful tampering with, removal of, or injury to any cables, wires or equipment used for distribution of television or radio signals, pictures, programs or sounds without consent of the system owner.
- (b)

Violators of the provisions of this section shall, upon conviction, be guilty of an offense, which shall be punishable as provided in section 1-15. Any equipment or structure erected or maintained and any work commenced or continued in violation of this chapter shall be and is hereby declared unlawful.

(Code 1973, § 57.090(D))

Secs. 9-9—9-20. - Reserved.

ARTICLE II. - PROVISIONS OF A FRANCHISE^[1]

Footnotes:

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Charter reference— *Franchises, Art. IX.*

Cross reference— *Ordinances conferring any right of or franchise saved from repeal, § 1-8(3).*

Sec. 9-21. - Nonexclusive right to use of public ways and places.

- (a) A franchise granted by the city pursuant to this chapter shall grant the right and privilege to construct, erect, operate and maintain in, upon, along, across, above, over and under streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof and additions thereto in the city, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the city of a cable TV system for the interception, sale and distribution of television and radio signals.
- (b) The right to occupy such streets, alleys, public ways and public places for the purposes herein set forth shall not be exclusive and the city reserves the right to grant a similar use of such streets, alleys, public ways and public places to any person at any time during the period of this franchise.

(Code 1973, § 57.020(A))

Sec. 9-22. - Duration.

A franchise and the rights, privileges, obligations and authority granted thereunder takes effect and shall be in force as provided herein within thirty (30) days from and after final passage and shall continue in full force and effect for a term of fifteen (15) years. As a condition precedent to the issuance of a franchise, the grantee shall file its unconditional acceptance of the franchise, which shall have this chapter, as amended, incorporated therein by reference, and promise to comply with all of its provisions, terms and conditions.

(Code 1973, § 57.020(B))

Sec. 9-23. - Renewal procedure.

- (a) A franchise may be renewed by the city upon application of the grantee pursuant to the procedure established in subsection (6) of this section and in accordance with the then applicable law.
- (b) The procedure for renewal shall be as follows:
 - (1) At least thirteen (13) months prior to the expiration of a franchise, the grantee shall inform the city in writing of its intent to seek renewal of the franchise.
 - (2) After giving public notice, the city shall proceed to determine whether the grantee has satisfactorily performed its obligation under the franchise. To determine satisfactory performance, the city shall consider technical developments and performance of the system, programming, other services offered, cost of services, and any other particular requirements set

out in this chapter; also, the city shall consider the grantee's annual reports made to the city and the FCC; industry performance on a national basis shall also be considered. Provision shall be made for public comment.

- (3) A four-month period shall be provided to determine the grantee's eligibility for renewal.
- (4) The city shall then prepare within two (2) months any amendments to this chapter that it believes necessary.
- (5) If the city finds the grantee's performance satisfactory, a new franchise may be granted pursuant to this chapter as amended for an additional period of ten (10) years. Subsequent renewal for ten-year periods may be applied for by the grantee in accordance with the procedure outlined in this section.
- (6) If the grantee is determined by the city to have performed unsatisfactorily, new applicants may be sought and evaluated and a franchise award may be made by the city.

(Code 1973, § 57.020(C))

Sec. 9-24. - Transfer of ownership or control.

- (a) Any franchise granted under this chapter shall be a privilege to be held for the benefit of the public. A franchise cannot in any event be sold, transferred, leased, assigned or disposed of, including but not limited to, by forced or voluntary sale, merger, consolidation, receivership or other means without the prior consent of the city, and then only under such conditions as the city may establish. Such consent as required by the city shall, however, not be unreasonably withheld.
- (b) The grantee shall promptly notify the city of any actual or proposed change in, transfer of or acquisition by any other party of control of the grantee. The word "control" as used in this section is not limited to major stockholders but includes actual working control in whatever manner exercised. A rebuttal presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of persons of ten (10) percent of the voting shares of the grantee. Every change, transfer or acquisition of control of the grantee shall make the franchise subject to cancellation unless and until the city shall have consented thereto, which consent will not be unreasonably withheld. For the purpose of determining whether it shall consent to such change, transfer or acquisition of control, the city may inquire into the qualification of the prospective controlling party and the grantee shall assist the city in any such inquiry.
- (c) The city agrees that any financial institution having a pledge of a franchise or its assets for the advancement of money for the construction and/or operation of the franchise shall have the right to notify the city that it or its designee satisfactory to the city will take control and operate the cable television system. Further, the financial institution shall also submit a plan for such operation that will ensure continued service and compliance with all franchise obligations during the term of the financial institution exercises control over the system. The financial institution shall not exercise control over the system for a period exceeding one (1) year unless extended by the council in its discretion and during such period of time it shall have the right to petition the city to transfer the franchise to another grantee. If the city finds that such transfer, after considering the legal, financial, character, technical and other public interest qualities of the applicant, is satisfactory, the city will transfer and assign the rights and obligations of such franchise as in the public interest. The consent of the city to such transfer shall not be unreasonably withheld.
- (d) The city reserves the right, all other things being equal in the event of a request for approval of the transfer of the ownership of a franchise by the grantee, to grant preference to any local not-for-profit organization who demonstrates a willingness and capability to meet the terms and amount of the

bona fide offer made to the grantee for purchase of the franchise and system. In no event, however, shall the city delay ruling on any request for approval of the transfer of the ownership of the franchise by the grantee for more than one hundred eighty (180) days from receipt of such request by the city.

- (e) The consent or approval of the city to any transfer of the grantee shall not constitute a waiver or release of the rights of the city in and to the streets, and any transfer shall by its terms be expressly subordinate to the terms and conditions of the franchise.
- (f) In the absence of extraordinary circumstances, the city will not approve any transfer or assignment of a franchise prior to substantial completion of construction of the proposed system.
- (g) In no event shall a transfer of ownership or control be approved without successor in interest becoming a signatory to this franchise agreement.

(Code 1973, § 57.020(D))

Sec. 9-25. - Termination; removal of system.

Upon termination of a franchise at the expiration date applicable under the provisions of this article, the grantee may be required to remove the cable system from all subscribers properties at no expense to the city.

(Code 1973, § 57.020(E))

Sec. 9-26. - Right of city to purchase system.

Upon expiration of a franchise under provisions set forth in section 9-103, the city shall have the right to purchase the cable television system. In order to determine the purchase price of the system, the city shall choose a recognized appraiser of cable television systems, using the following formula:

- (1) Replacement costs, new, or the physical property less depreciation.
- (2) Costs of the appraisal shall be deducted from the price to be paid by the city.
- (3) The city shall purchase only those assets suitable for delivery of basic services which are in a high state of repair. However, if the city purchases any assets in less than a high state of repair, the price shall be less depreciation and less the cost of restoring the assets to a high state of repair.
- (4) No allowance shall be made for good will, value of the franchise or prospective profits in determining the system's value for purchase upon termination of the franchise.

(Code 1973, § 57.020(F))

Secs. 9-27—9-40. - Reserved.

ARTICLE III. - SYSTEM DESIGN

Sec. 9-41. - Channel capacity.

The grantee shall construct a cable system that shall have a minimum capacity of thirty-five (35) channels. If additional channels of broadcast carriage are permitted in the future by the FCC, the grantee shall also be required to carry the additional broadcast carriage channels.

(Code 1973, § 57.040(A))

Sec. 9-42. - Access channels.

- (a) The grantee shall comply with the following requirements on cable access:

- (1)

Public access channel. The grantee shall maintain at no cost to the user at least one (1) specially designated noncommercial public access channel available on a first-come, nondiscriminatory basis.

- (2) *Local government access channel.* The grantee shall maintain at no cost to the user at least one (1) specially designated channel available for local government use.
 - (3) *Education access channel.* The grantee shall maintain at no cost to the user at least one (1) specially designated channel available for use by each public school district within the city or an interconnection for those school districts served by another cable system.
 - (4) *Leased access channel.* The grantee shall maintain at least one (1) specially designated channel for leased access uses. In addition, other portions of its nonbroadcast bandwidth, including unused portions of the above specially designated channels, shall be available for leased uses. On at least one (1) of the leased channels priority shall be given to part-time users of leased access.
 - (5) *Regional educational access channels.* The grantee shall maintain at least two (2) designated channels for use at no cost by regional educational authorities, one (1) channel which shall be primarily for higher educational programming, and one (1) channel which shall be for elementary and secondary educational programming. Full-time interconnection from a technical center designated by the city to the grantee at no cost to the city shall be provided, and this interconnection shall meet the same technical standards as the remainder of the grantee's system.
 - (6) *Regional cultural and public affairs access channel.* The grantee shall maintain at least one (1) specially designated regional channel for use at no cost by regional public service authorities. Full-time interconnection from a technical center designated by the city to the grantee's head-end shall be provided by the grantee at no cost to the city, and this interconnection shall meet the same technical standards as the remainder of the grantee's system.
- (b) Until such time as there is demand for each channel full time for its designated use, the educational, government and public access channels and the regional educational, cultural and public affairs access channels may be combined on one (1) or more cable channels. To the extent time is available therefor, access channels may also be leased for other broadcast and nonbroadcast services except that at least one (1) channel shall be maintained exclusively for the presentation of access programming as required by subsection (c) of this section.
 - (c) The grantee shall, in any case, maintain at least one (1) full channel for shared access programming.
 - (d) Whenever any of the channels described in subsection (a) or (c) of this section is in use during eighty (80) percent of the weekdays (Monday through Friday) for eighty (80) percent of the time during any consecutive three-hour period for six (6) consecutive weeks, the grantee shall have six (6) months in which to make a new channel available for the same purpose.
 - (e) The grantee shall make available all other channels, other than those which are part of the system's activated channel capability, for the purpose specified in subsection (a) of this section.

(Code 1973, § 57.040(B))

Sec. 9-43. - Channel uses—Basic service.

The grantee shall provide all subscribers service with all television broadcast signals required to be carried pursuant to the rules of the FCC, all local origination channels designated by the grantee and at least one (1) of the cablecasting access channels for public, education, government and lease users as specified in section 9-42(a).

(Code 1973, § 57.040(C))

Sec. 9-44. - Same—Additional service re pay TV.

If the grantee as an additional service offers pay television or pay cable to subscribers, the grantee shall also make available to all such subscribers at no additional subscription or installation cost a key lock device capable of rendering pay television or pay cable service inaccessible.

(Code 1973, § 57.040(D))

Sec. 9-45. - Service to schools.

The grantees shall provide basic service to public schools within the city for educational purposes at no cost to the city or the public school system. The grantee shall also provide similar services without cost to private noncommercial schools, including parochial or other religious schools. This basic service shall be for the duration of the franchise.

(Code 1973, § 57.040(E))

Sec. 9-46. - Two-way capacity; subscriber privacy.

- (a) Any system constructed shall meet or exceed the FCC requirement for two-way cablecasting. The grantee shall agree to develop Class IV signal uses, as defined by the FCC, as soon as a demand by a reasonable number of subscribers exists for two-way cablecasting. Provided, however, that the grantee shall not be required to provide such service unless projected revenues from such service shall equal or exceed the projected incremental costs of providing such service.
- (b) No signals of a Class IV cable communications channel shall be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the subscriber is authorizing the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed one (1) year, which shall be renewable at the option of the subscriber. No penalty shall be invoked for a subscriber's failure to provide or renew such an authorization. The authorization shall be revokable at any time by the subscriber without penalty of any kind whatsoever provided that such revocation request may be required to be in writing by the grantee. Such authorization is required for each type or classification of Class IV cable television activity planned; provided, however, that the grantee shall be entitled to conduct system-wide or individually addressed sweeps for the purpose of verifying system integrity, controlling return-path transmission or billing for pay services.
- (c) The grantee or any of its agents or employees shall not, without the specific written authorization of the subscriber involved, sell or otherwise make available to any party:
 - (1) Lists of the names and address of such subscribers; or
 - (2) Any list which identifies the viewing habits of subscribers.

(Code 1973, § 57.040(F))

Sec. 9-47. - Emergency override.

The grantee shall design and construct the system to provide for an audio override of all audio channels during emergencies whereby a designee of the city may introduce an audio message on all of the systems channels simultaneously. An emergency power source shall also be provided by the grantee at the head-end of the system.

(Code 1973, § 57.040(G))

Sec. 9-48. - Interconnection.

- (a) *Required.* The grantee shall interconnect origination and access channels of the cable system with any or all other cable systems in adjacent areas, upon the directive of the city. Interconnection of systems may be done by direct cable connection, microwave link, satellite or other appropriate method.
- (b) *Procedure.* Upon receiving the directive of the city to interconnect, the grantee shall immediately initiate negotiations with the other affected system or systems in order that costs may be shared equally for both construction and operation of the interconnection link.
- (c) *Relief.* The grantee may be granted reasonable extensions of time to interconnect or the city may rescind its order to interconnect upon petition by the grantee to the city. The city may grant such request if it finds that the grantee has negotiated in good faith and has failed to obtain an approval from the system or systems of the proposed interconnection, or that the cost of the interconnection would cause an unreasonable or unacceptable increase in subscriber rates.
- (d) *Cooperation required.* The grantee shall cooperate with any interconnection corporation, regional interconnection authority or city, county, state and federal regulatory agency which may be hereafter established for the purpose of regulating, financing or otherwise providing for the interconnection of cable systems beyond the boundaries of the city.
- (e) *Initial technical requirements to ensure future interconnection capability:*
 - (1) All cable systems receiving franchises to operate within the city shall use the standard frequency bandwidth.
 - (2) All cable systems are required to use signal processors at the head-end for each television signal.
 - (3) The city also urges the grantee to provide local origination equipment that is compatible throughout the area so that video cassettes or videotapes can be shared by various systems.

(Code 1973, § 57.040(H))

Secs. 9-49—9-60. - Reserved.

ARTICLE IV. - TECHNICAL, PERFORMANCE AND CONSTRUCTION STANDARDS

Sec. 9-61. - Technical standards.

The technical standards for operation of a system shall, in addition to meeting the requirements specified in this chapter and the franchise agreement, conform to any other standards or codes as may be adopted by the city.

(Code 1973, § 57.050(A))

Sec. 9-62. - Construction codes.

The grantee shall install and maintain its wires, cable, fixtures, poles, towers, house connections, head-end and distribution system in accordance with the requirements of the *National Electrical Safety Code*, promulgated by the National Bureau of Standards, or the *National Electrical Code* of the National Board of Fire Underwriters and such applicable ordinances and regulations of the city affecting electrical installations which may be presently in effect or changed by future ordinances, in such manner that they will not interfere with any installation of the city or of a public utility serving the city.

(Code 1973, § 57.050(B))

Sec. 9-63. - Performance measurement

The grantee shall construct at least one (1) head-end and the necessary antenna and studio facility to permit the reception of broadcast signals and the origination of programming within one (1) year after the commencement of construction following the timetable as set forth in section 9-81.

(Code 1973, § 57.050(C))

Sec. 9-64. - Maintenance of facilities.

All structures, lines, equipment and connections in, over, under and upon the streets of the city wherever situated or located shall at all times be kept in a safe, suitable, substantial condition and in good order and repair.

(Code 1973, § 57.050(D))

Sec. 9-65. - Tree trimming authorization.

The grantee shall have the authority to trim trees upon and overhanging streets in the city so as to prevent branches of such trees from coming in contact with the wires and cables of the grantee, except that at the option of the city such trimming may be done by it or under its supervision and direction at the expense of the grantee.

(Code 1973, § 57.050(E))

Cross reference— Trees, § 46-11 et seq.

Sec. 9-66. - Relocation to accommodate public improvements.

If at any time during the period of a franchise the city shall elect to perform or carry on any public improvements of any description, the grantee shall, upon reasonable notice by the city, promptly remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

(Code 1973, § 57.050(F))

Sec. 9-67. - Restoration, protection of city facilities.

Any alteration to the water mains, sewerage or drainage system or to any city, state or other public structures in the street required on account of the presence of the cable TV system in the streets shall be made at the sole cost and expense of the grantee. During any work of constructing, operating or maintaining of the system, the grantee shall also, at its own cost and expense, protect any and all existing structures belonging to the city, the county, the state or any public utility. All work performed by the grantee pursuant to this section shall be done in the manner prescribed by the city or other officials having jurisdiction therein.

(Code 1973, § 57.050(G))

Sec. 9-68. - Conformance of installations to city, state regulations; public interference.

All installations of equipment shall be of a permanent nature, durable, installed in accordance with good engineering practices and of sufficient height to comply with all existing regulations and ordinances of the city and laws of the state. Installations shall not interfere in any manner with the right of the public and individual property owners, and shall not interfere with the travel and use of public places by the public and during the construction, repair or removal thereof shall minimize the obstructing or impeding of traffic.

(Code 1973, § 57.050(H))

Secs. 9-69—9-80. - Reserved.

ARTICLE V. - REGULATORY PROVISIONS

Sec. 9-81. - City to have continuing jurisdiction.

The council shall have continuing regulatory jurisdiction and primary supervision over the operation of any franchise granted under this chapter, including the establishment of subscriber rates. However, it is recognized that the council may delegate authority to NACTA for any regulation which may be required in other parts of this chapter.

(Code 1973, § 57.060(A))

Sec. 9-82. - Construction timetable.

- (a) Within ninety (90) days after the effective date of a franchise agreement, the grantee shall file with the FCC, the city, appropriate public utilities and other governmental agencies all the necessary papers, applications, contracts and other documents necessary to permit the construction and operation of the cable TV system, and shall thereafter make diligent efforts to obtain the proper execution and delivery of such documents.
- (b) Within thirty (30) months after the commencement of construction, the grantee shall have completed initial construction and full activation of the system.

(Code 1973, § 57.060(B))

Sec. 9-83. - Prompt provision of service after construction.

Upon completion of the initial construction of a system in accordance with section 9-82(b), the grantee shall make service available to all dwelling units within the city.

(Code 1973, § 57.060(C))

Sec. 9-84. - Maintenance, alteration of system; inspection.

- (a) The grantee shall construct, operate and maintain its system subject to the supervision of all the authorities of the city, the county, the state and public utilities who have jurisdiction in such matters, and in strict compliance with all laws, ordinances and departmental rules and regulations affecting the system.
- (b) The system and all parts thereof shall be subject to the right of periodic inspection by the city, at the grantee's expense.
- (c) No construction, reconstruction or relocation of the system or any part thereof within the streets shall be commenced until written permits have been obtained from the director of public works or authorized representative. In any permit so issued, such officials may impose such conditions and regulations, as a condition of the granting of the same, as are necessary for the proper restoration and protection of such streets, for the protection of the public and for the continuity of pedestrian and vehicular traffic.
- (d) The council may from time to time issue such reasonable rules and regulations concerning the construction, operation and maintenance of the system as are consistent with the provisions of this chapter and the franchise agreement issued pursuant to this chapter.

(Code 1973, § 57.060(D))

Sec. 9-85. - Initial rates; requests for change; rate modification authority; rate conformance within county.

- (a) *Initial rates.* The following provisions shall apply to the establishment of initial rates:
- (1) The grantee shall establish initial rates that must be applied fairly and uniformly to all subscribers in the city for its services in accordance with the rates contained in the grantee's application for the franchise.
 - (2) Initial basic subscriber rates shall be effective until completion of system construction and full activation of the cable system.
- (b) *Requests to change initial rates.* The grantee may request a rate change at any time after completion of construction and full activation of the system, provided that not more than one (1) request may be made by the grantee in any twelve-month period.
- (c) *Rate modification authority.* Between September 1 and November 30 of the third, sixth, ninth and twelfth years after the effective date of the granting of the franchise, the city shall determine whether it will assume rate modification authority:
- (1) If the city declines rate modification authority, then rates may be changed by the grantee by filing with the city a schedule of rates proposed and by notifying its subscribers in writing at least sixty (60) days prior to implementation of the rate change.
 - (2) If the city assumes rate modification authority, then for the next three (3) years rates shall be subject to change only by the city in accordance with the procedures in section 9-86.
- (d) *Rate conformance within county.* The grantee shall not charge subscribers in excess of the lowest charge being made to subscribers of the grantee for similar service under any other franchises held by the grantee in the county.

(Code 1973, § 57.060(E))

Sec. 9-86. - Rate change procedure.

- (a) *Rates subject to review.* The city shall have the authority if assumed under the provisions of section 9-85, to review the following rates, fees and charges:
- (1) Rates for the provision of basic service to subscribers, whether residential or commercial;
 - (2) Rates for the connection, installation and reinstatement (including converters) of basic service, whether residential or commercial;
 - (3) Rates for installation, connection and reinstatement of basic service where unusual circumstances exist, such as remote or inaccessible subscriber locations or subscriber-requested underground service drops.
- (b) *Petition.* The grantee may petition the city for a change in rates by filing, in triplicate, a proposed rate schedule with the council, which petition shall include the justification for the proposed schedule. The petition shall be filed at least ninety (90) days prior to the requested implementation date of the rate change. One (1) copy of the petition shall remain on file with the city clerk and be open for public inspection.
- (c) *Public hearing.* Within ninety (90) days of the filing of a petition for rate change, the city shall hold an appropriate public hearing to consider the proposed rate change, at which hearing all persons desiring to be heard, including the grantee, shall be heard on any matter, including but not limited to the performance of the franchise, the grantee's service and the proposed new rates.
- (d) *Notice of hearing.* Upon notice of any public hearing as provided in subsection (c), the grantee shall notify its subscribers of the time, place and subject matter of the public hearing by announcement on at least two (2) channels of its system between the hours of 7:00 p.m. and 9:00 p.m., for at least five

(5) consecutive days prior to the hearing. In addition, notice of any public hearing shall be published in a newspaper of general circulation at least once, but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) nor more than twenty-one (21) days before the public hearing.

- (e) *Determining factors.* Within ninety (90) days after the hearing, the city shall render a written decision on the grantee's petition either accepting, rejecting or modifying rates or time of implementation and reciting the basis of its decision. The city shall consider, along with any other information it deems necessary or appropriate, the following factors in approving or disapproving the petition:
- (1) The ability of the grantee to render system services and to derive a reasonable profit therefrom under the existing rate schedule and under the proposed rate schedule;
 - (2) The revenues and profits derived from system services;
 - (3) The efficiency of the grantee;
 - (4) The quality of the service offered by the grantee;
 - (5) The fair value cost of the system less depreciation;
 - (6) A fair rate of return with respect to the grantee's investment;
 - (7) The extent to which the grantee has adhered to the terms of the agreement; and
 - (8) Fairness to city residents, subscribers and users.

The city shall not consider any valuation based upon the franchise and the items of value shall neither be amortized as an expense nor shall a return be paid on them.

- (f) *Failure to render decision.* If the city fails to render a written decision either accepting, rejecting or modifying rates or time of implementation within one hundred eighty (180) days of the grantee's petition pursuant to subsection (b) above, the grantee shall thereafter be entitled to put its proposed new rates into effect.
- (g) *Financial reports.* The grantee's petition for a rate increase shall include, but not be limited to, the following financial reports, which shall reflect the operations of the system:
- (1) Balance sheet;
 - (2) Income statement;
 - (3) Statement of sources and applications of funds;
 - (4) Detailed supporting schedules of expenses, income, assets and other items as may be required;
 - (5) Statement of current and projected subscribers and penetration.
- (h) *Inspection of accounting records.* The grantee's accounting records applicable to the system shall be available for inspection by the city at all reasonable times. The city shall have access to records of financial transactions for the purpose of verifying burden rates or other indirect costs prorated to the operation. The documents listed above shall include sufficient detail and/or footnotes as may be necessary to provide the city with information needed to make accurate determinations as to the financial condition of the system. All financial statements shall be certified as accurate by a certified public accountant and an officer of the grantee.
- (i) *Schedule of rates.* The grantee shall maintain and file with the city a complete schedule of subscriber rates, including all fees and charges for services not subject to approval by the city.
- (j) *Disconnections.* There shall be no charge for disconnection from the system. However, if a subscriber has failed to pay properly due monthly fees or if a subscriber disconnects for seasonal periods, the grantee may require, in addition to full payment of any delinquent fees, a reasonable fee for

reconnection.

- (k) *Consideration other than rate payment.* The grantee shall receive no consideration whatsoever for or in connection with its provision of service to its subscribers other than as set forth in this section or as filed with and/or approved by the council.
- (l) *Filing fee.* A minimum nonrefundable filing fee for rate change of one thousand dollars (\$1,000.00) shall accompany any application for a rate change and any additional costs in excess of the minimum fee above (to cover the costs of attorney's fees, rate consultant fees, financial auditing fees, court reporters and all other costs associated with the rate proceedings outlined in subsections (a) through (g) above) shall be paid upon conclusion of the rate hearing and prior to the rate decision. No charges levied in the foregoing paragraph shall be for the purpose of producing revenue, but shall be to recoup actual costs to the city.

(Code 1973, § 57.060(F))

Sec. 9-87. - Service to local government buildings.

The grantee shall provide basic service to local government-occupied buildings within the city at no cost to the city as specified in the franchise agreement. This basic service shall be for the duration of the franchise.

(Code 1973, § 57.060(G))

Sec. 9-88. - Refunds to subscribers.

If the grantee fails to provide any service requested by a subscriber, the grantee shall, after being afforded a reasonable opportunity to provide the service, not to exceed six (6) months, promptly refund all deposits or advance charges paid for the service in question by such subscriber. If any subscriber terminates any monthly service during the first twelve (12) months of such service because of failure of the grantee to render the service in accordance with the standards set forth in this chapter, the grantee shall upon order of the council refund to such subscriber an amount equal to the installation charges paid by the subscriber multiplied by the fraction of the twelve-month period for which the subscriber will not be receiving service. If the subscriber has made an advance payment, the amount paid shall be refunded by the grantee. This provision does not relieve the grantee of liability established in other provisions in this chapter.

(Code 1973, § 57.060(H))

Sec. 9-89. - Franchise fee—Amount to be paid.

The grantee of a franchise under this chapter shall pay to the city an annual fee in an amount equal to five (5) percent of the annual gross revenue, as defined pursuant to this chapter, for the construction, operation, maintenance and reconstruction of a cable system within the city. Such payment shall be in addition to any other payment, charge, permit fee or bond owed to the city by the grantee and shall not be construed as payment in lieu of personal or real property taxes levied by state, county or local authorities.

(Code 1973, § 57.060(I))

Sec. 9-90. - Same—Method of payment; inaccurate financial statements; examination and correction by council.

- (a) Sales taxes and any other fees or taxes, including copyright fees, which are collected from subscribers by the grantee to be remitted by the grantee to a governmental agency, shall be deducted from the gross subscriber revenue prior to the computation of the annual franchise payment. The payments due the city under the provisions of section 9-89 above shall be computed and due quarterly, based on the amount equal to five (5) percent of the annual gross revenues taken in by the grantee for the preceding three (3) months.
- (b) Each quarterly franchise payment shall be due and payable no later than thirty (30) days after the relevant computation date. Each payment shall be accompanied by a statement showing the basis for the computation and other relevant facts as may be required by the city.
- (c) No acceptance of any quarterly franchise payment shall be construed as a release or as an accord and satisfaction of any claim the city may have for further or additional sums payable as a franchise fee under this chapter or for the performance of any other obligation of the grantee.
- (d) Should the council not be satisfied with the accuracy of any statement required by this section, it may require the officers and employees of the grantee to appear before it and submit themselves and the grantee's books, records and accounts to the council's examination. Should the council ascertain after the audit of the books, records and accounts of the grantee that the gross receipts were greater than the amount stated, such grantee, notwithstanding such statement theretofore filed, shall pay to the city five (5) percent of the gross receipts as ascertained by the council, and in addition, shall pay to the city a penalty of two (2) percent per month for each month or portion of the month that the five-percent fee or any portion thereof remains delinquent.

(Code 1973, § 57.060(J))

Sec. 9-91. - Discrimination.

- (a) The grantee shall not deny service, deny access or otherwise discriminate against subscribers, channel users or general citizens on the basis of race, color, religion, national origin or sex.
- (b) The grantee shall strictly adhere to the equal employment opportunity requirements of all applicable federal, state, county and city laws, and all executive and administrative orders relating to nondiscrimination. The grantee shall make a positive effort to hire racial minorities, women and other protected groups as subcontractors, if available and qualified.

(Code 1973, § 57.060(K))

Cross reference— Human rights, Ch. 21.

Sec. 9-92. - Business offices; service efficiency.

- (a) The grantee shall maintain one (1) or more offices in the service area which shall be open during all usual business hours, have a locally listed telephone and be operated so that complaints and requests for repairs or adjustments may be received at any time. In addition, the grantee shall maintain a convenient office in the service area during normal business hours, for the receipt of sums due by its subscribers and shall provide for regular billing of accounts.
- (b) The grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for a period not to exceed twenty-four (24) hours or one (1) working day. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the system.

(Code 1973, § 57.060(L))

Sec. 9-93. - Engaging in other business activities; compliance with other applicable regulations.

- (a) The grantee shall not engage in the business of selling, installing or repairing television receivers, beyond the cable connection, within the city for the duration of this franchise. The council shall authorize the aforementioned activities only if there is no other means of providing such services.
- (b) A franchise granted authorizes only the operation of a cable TV system as provided for in this chapter, and does not take the place of any other franchise, license or permit which might be required of the grantee by law. Wilful failure by the grantee to comply with zoning, building, construction or other applicable city ordinances shall constitute grounds for forfeiture of the franchise.

(Code 1973, § 57.060(M))

Sec. 9-94. - Conditions on street occupancy.

- (a) All transmission and distribution system poles, wires and appurtenances shall be located, erected and maintained so as not to endanger or interfere with the lives of persons; or to interfere with new improvements the city may deem proper to make; or to unnecessarily hinder or obstruct the free use of the streets, alleys, bridges or other public property. The removal of poles to avoid such interference will be at the grantee's expense.
- (b) In case of disturbance of or encroachment on any street or other public easement, the grantee shall comply with the relevant provisions of state statutes and applicable city ordinances and shall at its own cost and expense and in a manner approved by the council replace and restore such street or other public easement in as good a condition as before the work.
- (c) If at any time during the period of a franchise, the city shall elect to alter or change the grade of any street, upon reasonable notice by the council the grantee shall promptly remove, relay and relocate its poles, wires, cable, underground conduits, manholes and other fixtures at its own expense.
- (d) All installations of equipment shall be of a permanent nature, durable, installed in accordance with good engineering practice and of sufficient height to comply with all existing regulations and ordinances of the city and laws of the state. Installations shall not interfere in any manner with the right of the public or individual property owners, and shall not interfere with the travel and use of public places by the public, and during the construction, repair or removal thereof, shall not obstruct or impede traffic.
- (e) In the maintenance and operation of its television transmission and distribution system in the streets and other public places, and in the course of any new construction or addition to its facilities the grantee shall proceed so as to cause the least possible inconvenience to the general public. Any opening or obstruction in the streets or other public places made by the grantee in the course of its operations shall be guarded and protected at all times by the placement of adequate barriers, fences or boardings, the bounds of which, during periods of dusk and darkness, shall be clearly designated by red warning lights. If the grantee's distribution system should conflict with any existing easement, the grantee shall modify and move its distribution system at its own expense to avoid such conflict.
- (f) The grantee, upon the request of any person holding a building moving permit issued by the city, shall temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the permit holder, if other than the city. The grantee shall have the authority to require such payment in advance. The grantee shall be given not less than forty-eight (48) hour's advance notice to arrange for such temporary wire changes.
- (g) The facilities of the grantee shall be installed underground in those areas of the city where existing telephone and electric services are both underground at the time of construction of the system. In areas where either telephone or electric utility facilities are installed aerially at the time of system

construction, the grantee may install its facilities aerially with the understanding that at such time as the aforementioned aerial facilities are required to be placed underground by the city, the grantee shall likewise place its facilities underground. Any additional cost to subscribers for such installation shall be approved by the council in accordance with provisions of this chapter.

(Code 1973, § 57.060(N))

Cross reference— Streets, sidewalks and other public places, Ch. 40.

Sec. 9-95. - Erection, removal and common use of poles.

- (a) No poles or other wire-holding structures shall be erected by the grantee without prior approval of the council with regard to location, heights, type and other pertinent aspect. However, no location of any pole or wire-holding structure of the grantee shall be a vested interest, and such poles or structures shall be removed or modified by the grantee at its own expense whenever the council determines that the public convenience shall be enhanced thereby.
- (b) Where poles or other wire-holding structures already existing for use in serving the city are available for use by the grantee, but it does not make arrangements for such use, the council may require the grantee to use such poles and structures if it is determined that the public convenience would be enhanced thereby and the terms of the use available to the grantee are just and reasonable.
- (c) Where the city or a public utility serving the city desires to make use of the poles or other wire-holding structures of the grantee but agreement therefor with the grantee cannot be reached, the council may require the grantee to permit such use for such consideration and upon such terms as the council shall determine to be just and reasonable, if the council shall determine that the use would enhance the public convenience and would not unduly interfere with the grantee's operations.

(Code 1973, § 57.060(O))

Cross reference— Poles and wires, § 45-31 et seq.

Sec. 9-96. - Continuity of service.

The grantee shall be required to provide continuous service to all subscribers in return for payment of the established subscriber rate. If the grantee overbuilds, rebuilds, modifies or sells the system, or if the council revokes, fails to renew the franchise, elects to purchase the system or the franchise becomes void, the grantee is required under this chapter to operate the system under the same terms and conditions of this chapter and the ordinance awarding the franchise until an orderly and lawful change of operation is effectuated. Under no circumstances shall this period of operation exceed twelve (12) months from the date of occurrence of any of the above-mentioned events. If a grantee fails to operate the system for five (5) consecutive days without prior approval of NACTA or if the grantee fails to continue operation on the occurrence of any of the above-mentioned events given in this section, NACTA or its agents shall have the rights to operate the system until such time that a new operator for the franchise is selected. If NACTA is required to fulfill this obligation for the grantee, the grantee shall reimburse NACTA for any costs or damages that result from the grantee's failure to operate the system as required.

(Code 1973, § 57.060(P))

Sec. 9-97. - Resolving disputes.

The council may do all things which are necessary and convenient under this chapter and may determine any question of fact which may arise during the existence of any franchise granted under this chapter. The city administration is hereby authorized and empowered to adjust, settle or compromise any

controversy or charge arising from the operations of the grantee under this chapter, either on behalf of the city, the grantee or any subscriber, in the best interest of the public. Either the grantee or any member of the public who may be dissatisfied with the decision of the city administration may appeal the matter to NACTA for hearing and determination. NACTA may accept, reject or modify the decision of the city administration, and NACTA may adjust, settle or compromise any controversy or cancel any charge arising from the operations of the grantee pursuant to the provisions of this chapter and the franchise agreement.

(Code 1973, § 57.060(Q))

Sec. 9-98. - Records and reports.

(a) The grantee shall file with NACTA:

- (1) An "Annual Report of the Cable Television Systems," as prescribed in FCC regulations;
- (2) An annual total facilities report setting forth the physical miles of plant constructed, rebuilt or in operation during the fiscal year. Such report shall also contain any revisions to the system as-built maps filed with the city pursuant to section 9-82;
- (3) The grantee's schedule of charges, contract or application form for regular subscriber service, policy regarding the processing of subscriber complaints, delinquent subscriber disconnect and reconnect procedures and any other terms and conditions adopted as the grantee's policy in connection with its subscribers shall be filed with the city and conspicuously posted in the grantee's local office;
- (4) All petitions, applications and communications of all types submitted by the grantee to the FCC and any other federal or state regulatory commission or agency having jurisdiction over any matter affecting the operation of the grantee's system shall be submitted simultaneously to the city by delivery to the city clerk who shall advise interested city departments of such filing matter;
- (5) The construction bond and letter of credit or certified copies thereof and written evidence of payment of required premium;
- (6) All policies of insurance or a certified copy thereof and written notice of payment of required premium;
- (7) An ownership report indicating all persons who at any time during the preceding year did control or benefit from an interest in the franchise of one (1) percent or more. It shall also include all creditors secured by pledges of the plant or corporate assets and all unsecured creditors in excess of fifty thousand dollars (\$50,000.00) relating to the franchise operations;
- (8) All rules, regulations, terms and conditions which it has adopted for the conduct of its business;
- (9) One (1) copy of a report of the systems technical measurements.

(b) The grantee shall at all times maintain:

- (1) A record of all complaints received and interruptions or degradation of service experienced for the preceding three (3) years;
- (2) A full and complete set of plans, records and as-built maps showing the exact location of all system equipment installed or in use in the city, exclusive of subscriber service drops;
- (3) When not otherwise prescribed, all matters required to be filed with the city shall be filed with the city clerk.

(Code 1973, § 57.060(R))

Sec. 9-99. - Accounting standards.

- (a) All financial reports prepared for the city by the grantee and all records maintained by the grantee shall conform to generally accepted accounting principles applied on a consistent and fair basis. Annual financial reports, as prescribed in section 9-100 shall be certified by an independent certified public accountant.
- (b) The following accounting transactions between the grantee the parent corporation and third party contractors shall be fully disclosed to the city and subject to the city's review and concurrence: All accounting assumptions and treatment, including but not limited to rates of depreciation; capitalization and expensing of costs; determination of capital structure; and amortization of indebtedness.
- (c) Values assigned to goodwill, the franchise or prospective profits shall not be recognized by the city in the assets considered for the rate-make base.

(Code 1973, § 57.060(S))

Sec. 9-100. - Annual financial report.

- (a) No later than sixty (60) days from the close of the grantee's fiscal year the grantee shall submit a written report to NACTA with sufficient copies for each municipality in NACTA, which shall include:
 - (1) A summary of the previous year's activities in the development of the system, including, but not limited to, services begun or discontinued, subscribers gained or lost;
 - (2) A financial statement, including a statement of income, a balance sheet and a statement of sources and applications of funds, covering all years since the beginning of the franchise;
 - (3) A current statement of cost of construction by component category;
 - (4) A projected income statement, balance sheet, statement of sources and applications of funds and state of construction for the next two (2) years;
 - (5) A reconciliation between previously projected estimates and actual results;
 - (6) A list of offices and members of the board of both the grantee and the parent corporation;
 - (7) A list of all stockholders holding one (1) percent or more of the voting stock of either the grantee or the parent corporation.
- (b) NACTA shall specify the form and details of all reports. If directed by NACTA, the annual report shall be presented at a public hearing at which the grantee shall summarize the contents of the report and members of the general public may comment thereon.
- (c) The grantee shall prepare and furnish to NACTA, at times prescribed by the franchising authority, such reports with respect to its operation, affairs, transactions or property as may be reasonably necessary or appropriate to the performance of any of the functions of the city in connection with this chapter.

(Code 1973, § 57.060(T))

Sec. 9-101. - Franchise review and evaluation.

- (a) On or about the third, sixth, ninth and twelfth anniversaries of the effective date of a franchise agreement, NACTA may schedule and hold a public meeting(s) with the grantee to review and evaluate the performance by the grantee under the franchise agreement, including future plans of operation, service area structures, amendments to the ordinance and current judicial and FCC rulings. In particular, NACTA may inquire whether the grantee is supplying a level and variety of services equivalent to those being generally offered by the industry at that time in comparable market situations. The grantee shall make available to NACTA, if requested by NACTA, such records and documents which are relevant for the purposes of the franchise review

- (b) Upon written notice given by NACTA or the grantee, one to the other, not less than six (6) months prior to the third, sixth, ninth and twelfth anniversaries respectively, the terms and condition of the franchise agreement may be modified, provided that both NACTA and the grantee are agreeable to such modification. Modifications shall be directed toward effecting alterations in the terms and conditions to reflect those technical and economic changes which have occurred during the interim period.

(Code 1973, § 57.060(U))

Sec. 9-102. - New technical developments.

It shall be the policy of the council to liberally amend a franchise, upon application of the grantee, when necessary to enable the grantee to take advantage of any developments in the field of transmission of television or radio signals which will afford it an opportunity to serve its customers more effectively, efficiently or economically. This section shall not be construed to require the council to make any amendment changing its policy.

(Code 1973, § 57.060(V))

Sec. 9-103. - Forfeiture, revocation of franchise.

- (a) In addition to all other rights and powers pertaining to the city by virtue of any franchise or otherwise, the city reserves the right to terminate and cancel any franchise and all rights and privileges of the grantee thereunder in the event that the grantee:
- (1) Violates any provision of the franchise, or any rule, order or determination of the city made pursuant to the franchise, except where such violation is without fault or through excusable neglect;
 - (2) Becomes insolvent, unable or unwilling to pay its debts, or is adjudged a bankrupt;
 - (3) Attempts to dispose of any of the facilities or property of its cable TV business to prevent the city from purchasing same, as provided for in this chapter;
 - (4) Attempts to evade any of the provisions of its franchise, or practices any fraud or deceit upon the city or the grantee's subscribers within the city; or
 - (5) Fails to pursue construction of the system within the time frame contained in the relevant sections of this chapter or as is contained in the grantee's proposal; whichever is the lesser period of time.
- (b) Such termination and cancellation shall be by ordinance duly adopted after not less than thirty (30) days' notice to the grantee and NACTA and shall in no way affect any of the city's rights under the franchise or any provision of the law. If such termination and cancellation depends upon a finding of fact, such finding of fact as made by the council shall be conclusive. (Copy of such finding of fact shall be provided to NACTA.) Provided, however, that before a franchise may be terminated and cancelled under this section, the grantee shall be provided with an opportunity to show cause before the council why the franchise should not be terminated or cancelled.
- (c) If a franchise expires, is revoked or otherwise terminated, the city may order the removal of the system's facilities from the city within a period of time as determined by the city or require the original grantee to maintain and operate the system until a subsequent grantee is selected.
- (d) NACTA may initiate action to recommend revocation of a franchise granted by any member city, town or village of NACTA. If such action is initiated, NACTA shall follow the procedures established in this section for use by the individual cities, etc., and shall provide a written report to each member city of

NACTA.

(Code 1973, § 57.060(W))

Sec. 9-104. - Liability; indemnification.

- (a) The grantee shall indemnify and hold harmless NACTA and each individual member city from any liability, claim, damage or cause of action which may be sustained or asserted against NACTA or member cities as the result, directly or indirectly or in any manner, of the performance or failure of performance on the part of the grantee.
- (b) The grantee shall pay, and by its acceptance of a franchise the grantee specifically agrees that it will pay all damages and penalties which the city may legally be required to pay as a result of granting the franchise. These damages and penalties shall include, but not be limited to, damages arising out of copyright infringements, operation or maintenance of the cable television system authorized in this chapter, whether or not any act or omission complained of is authorized, allowed or prohibited by the franchise.
- (c) The grantee shall pay, and by its acceptance of a franchise specifically agrees that it will pay, all expenses incurred by the city in defending itself with regard to all damages and penalties mentioned in subsection (b) above. These expenses shall include all out-of-pocket expenses, such as attorney fees, and shall also include the reasonable value of any services rendered by the city attorney or his assistants or any employees of the city.
- (d) The grantee shall provide and maintain in force for the duration of a franchise liability insurance in companies and forms satisfactory to NACTA and the individual cities, towns and villages granting franchises. Such insurance shall specifically name NACTA and each member city as an insured party under the policies, and the insurance shall be carried in a firm or corporation duly licensed or permitted to do business in the state. A verified copy of such insurance policy or policies shall be filed with NACTA and each member city, together with certificates of insurance showing that the policy or policies are in full force and effect, and that same shall not be altered, amended or terminated without thirty (30) days' notice to NACTA and member cities. The liability insurance carried by the grantee in regard to all damages mentioned in subsection (b) above shall be in minimum amount:
 - (1) Five hundred thousand dollars (\$500,000.00) for bodily injury or death to any person, within the limit, however, of one million dollars (\$1,000,000.00) for bodily injury or death resulting from any one (1) accident;
 - (2) Three hundred thousand dollars (\$300,000.00) property damage resulting from any one (1) accident;
 - (3) Five hundred thousand dollars (\$500,000.00) for all other types of liability.
- (e) Letter of credit:
 - (1) Within ten (10) days after the award of a franchise the grantee shall deposit with the city a letter of credit from a financial institution in the amount of twenty thousand dollars (\$20,000.00). The form and content of such letter of credit shall be approved by the city attorney. The letter of credit shall be used to ensure the faithful performance by the grantee of all provisions of the franchise; and compliance with all orders, permits and directions of any agency, commission, board, department, division or office of the city having jurisdiction over its acts or defaults under the franchise, and the payment by the grantee of any claims, liens and taxes which arise by reason of the construction, operation or maintenance of the system.

(2)

The letter of credit shall be maintained at twenty thousand dollars (\$20,000.00) during the entire term of a franchise, even if amounts have to be withdrawn pursuant to subsection (1) or (3) of this subsection (e).

- (3) If the grantee fails to pay to the city any compensation within the time fixed; or fails after ten (10) days' notice to pay to the city any taxes due and unpaid; or fails to repay the city within ten (10) days any damages, costs or expenses which the city is compelled to pay by reason of any act or default of the grantee in connection with a franchise; or fails after three (3) days' notice of such failure by the city to comply with any provision of the franchise which the city reasonably determines can be remedied by demand on the letter of credit, the city may immediately request payment of the amount thereof, with interest and any penalties, from the letter of credit. Upon such request for payment, the city shall notify the grantee of the amount and date thereof.
- (4) The rights reserved to the city with respect to the letter of credit are in addition to all other rights of the city, whether reserved by the franchise or authorized by law, and no action, proceeding or exercise of a right with respect to such letter of credit shall affect any other right the city may have.
- (5) The letter of credit shall contain the following endorsement:
"It is hereby understood and agreed that this letter of credit may not be cancelled by the surety nor the intention not to renew be stated by the surety until thirty (30) days after receipt by the city, by registered mail, of a written notice of such intention to cancel or not to renew."

(f) Construction bond:

- (1) Within thirty (30) days after the award of a franchise the grantee shall obtain and maintain at its cost and expense, and file with the city clerk, a corporate surety bond in a company authorized to do business in the state and found acceptable by the city attorney in the amount of two hundred thousand dollars (\$200,000.00) to guarantee the timely construction and full activation of the system. The bond shall provide, but not be limited to, the following condition: There shall be recoverable by the city, jointly and severally from the principal and surety, as liquidated damages resulting from the failure of the grantee to satisfactorily complete and fully activate the system throughout the franchise area where the system will be initially available to all dwelling units pursuant to the terms and conditions of section 9-82 within thirty (30) months.
- (2) Any extension to the prescribed time limit must be authorized by the council. Such extension shall be authorized only when the council finds that such extension is necessary and appropriate due to causes beyond the control of the grantee.
- (3) The construction bond shall be terminated only after the council finds that the grantee has satisfactorily completed initial construction and activation of the system pursuant to the terms and conditions of section 9-82.
- (4) The rights reserved to the city with respect to the construction bond are in addition to all other rights of the city, whether reserved by this chapter or authorized by law, and no action, proceeding or exercise of a right with respect to such construction bond shall affect any other rights the city may have.
- (5) The construction bond shall contain the following endorsement:
"It is hereby understood and agreed that this bond may not be cancelled by the surety nor the intention not to renew be stated by the surety until thirty (30) days after receipt by the city, by registered mail, of a written notice of such intent to cancel or not to renew."

- (g) For the violation of any of the following provisions of this chapter, penalties shall be chargeable to the letter of credit as follows:
- (1) For failure to complete system construction in accordance with section 9-82, unless the council specifically approves the delay by motion or resolution, due to the occurrence of conditions beyond grantee's control, grantee shall pay two hundred dollars (\$200.00) per day for each day, or part thereof, that the deficiency continues.
 - (2) For failure to provide data, documents, reports, information or to cooperate with the city during an application process or system review, grantee shall pay fifty dollars (\$50.00) per day that each violation occurs or continues.
 - (3) For failure to test, analyze and report on the performance of the system following a request pursuant to this chapter, the grantee shall pay to the city fifty dollars (\$50.00) per day for each day, or part thereof, that such noncompliance continues.
 - (4) Forty-five (45) days following adoption of a resolution of the council determining a failure to comply with construction, operational or maintenance standards, the grantee shall pay to the city one hundred dollars (\$100.00) per day for each day, or part thereof, that such noncompliance continues.
- (h) The insurance policy and bond obtained by the grantee in compliance with this section must be approved by the franchising authority and such insurance policy and bond, along with written evidence of payment of the required premiums, shall be filed and maintained with the franchising authority during the term of the franchise.

(Code 1973, § 57.060(X))

Sec. 9-105. - Receivership; foreclosure.

- (a) If the city voids a grantee's franchise, the city shall take over and conduct the business of the franchise, whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of one hundred twenty (120) days, or unless:
- (1) Within one hundred twenty (120) days after his election or appointment, such receiver or trustee shall have fully complied with all provisions of this chapter and any franchise granted pursuant to this chapter and remedied all defaults thereunder; and
 - (2) Such receiver or trustee, within one hundred twenty (120) days, shall have executed an agreement, duly approved by the court having jurisdiction in the matter, whereby such receiver or trustee assumes and agrees to be bound by each provision of this chapter.
- (b) In the case of a foreclosure or other judicial sale of the plant, property and equipment of the grantee, or any part thereof, including or excluding the franchise, the council or its designee may serve notice of termination upon the grantee and the successful bidder at such sale, in which event the franchise granted under this chapter and all rights and privileges of the grantee under this chapter shall cease and terminate thirty (30) days after service of such notice, unless:
- (1) The council shall have approved transfer of the franchise, as and in the manner in this chapter provided; and
 - (2) Unless such successful bidder shall have covenanted and agreed with the city to assume and be bound by all terms and conditions of the franchise.

- (c) NACTA may be designated by the individual member cities to carry out the provisions of this section.

(Code 1973, § 57.060(Y))

Chapter 10 - CIVIL DISASTERS AND EMERGENCIES^[1]

Footnotes:

--- (1) ---

Cross reference— *Floodplain management, Ch. 18; police, Ch. 33.*

State Law reference— *Civil defense, RSMo Ch. 44.*

ARTICLE I. - IN GENERAL

Sec. 10-1. - National Incident Management System (NIMS).

The National Incident Management System (NIMS) is hereby adopted as the city's system of preparing for and responding to disaster incidents.

(Ord. No. 2012-3506, § 1, 11-13-12)

Secs. 10-2—10-15. - Reserved.

ARTICLE II. - DEPARTMENT OF CIVIL DEFENSE^[2]

Footnotes:

--- (2) ---

Cross reference— *Departments, § 2-201 et seq.*

State Law reference— *Creation of municipal disaster planning organization mandated, powers and duties of organization and its coordinator, RSMo 44.080.*

Sec. 10-16. - Created; designated local organization for disaster planning.

- (a) There is hereby created a department of civil defense for the preparation and the carrying out of all the emergency functions other than functions for which the military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters caused by enemy attack in accordance with RSMo Ch. 44. This department shall consist of a coordinator and such other additional members to be selected by the coordinator as are approved by the city manager in order to conform to the state organization and procedures for the conduct of emergency operations as outlined in the state survival plan.
- (b) The department of civil defense is hereby designated the city's local organization for disaster planning, pursuant to RSMo 44.080.

(Code 1973, § 4.13(a); Ord. No. 85-2054, § 1(4.38(a)), 2-12-85)

Sec. 10-17. - Coordinator; designation of chief executive officer.

- (a) The coordinator of the department of civil defense shall be appointed by the city manager and shall serve until removed by the same. The coordinator shall have such responsibilities for the organization, administration and operation of the department as are delegated by the city manager or as otherwise provided by statute or ordinance.
- (b) For purposes of this section, in any statutes or regulations in which the term chief executive officer is used, such term shall mean the city manager.

(Code 1973, § 4.13(b); Ord. No. 85-2054, § 1(4.38(b)), 2-12-85)

Cross reference— Officers and employees generally, § 2-46 et seq.

Sec. 10-18 - Functions

The department of civil defense shall perform such civil defense functions within the city as shall be prescribed in and by the state civil defense plan and program prepared by the governor, and such orders, rules, and regulations as may be promulgated by the governor, and in addition shall perform such duties outside the corporate limits as may be required pursuant to any mutual aid agreement with any other political subdivision, municipality, or quasi-municipality entered into as provided by RSMo Ch. 44 or the state survival plan.

(Code 1973, § 4.13(c); Ord. No. 85-2054, § 1(4.38(c)), 2-12-85)

Sec. 10-19. - Personnel; mobile support teams.

The coordinator of the department of civil defense shall appoint, provide without compensation or remove any personnel needed by the organization for the proper performance of its duties. The coordinator of the department of civil defense shall form mobile support units as provided for in RSMo Ch. 44 and the state survival plan and shall designate the leaders thereof. Any member of a mobile support team who is a municipal employee or officer while serving on call to duty by the governor, or the state director of civil defense, shall receive the compensation and have the powers, duties, rights, and immunities incident to such employment or office.

(Code 1973, § 4.13(d); Ord. No. 85-2054, § 1(4.38(d)), 2-12-85)

Sec. 10-20. - Mutual aid agreements.

The city manager, with the approval of the governor and the council, may enter into mutual aid arrangements or agreements with other public and private agencies within the state for reciprocal civil defense aid. Such arrangements or agreements shall be consistent with the state survival plan, and in time of emergency, it shall be the duty of each local organization for civil defense to render assistance in accordance with the provisions of such mutual aid arrangements or agreements. The coordinator of the department of civil defense may assist in negotiation or reciprocal mutual aid agreements between his department and other public and private agencies, and shall carry out arrangements or agreements relating to his department.

(Code 1973, § 4.13(e); Ord. No. 85-2054, § 1(4.38(e)), 2-12-85)

State Law reference— Mutual aid agreements, RSMo 44.090.

Sec. 10-21. - Cooperation of city departments.

In carrying out emergency powers, the council, city manager, the coordinator of the department of civil defense and other officers of the city are directed to use the services, equipment, supplies and facilities of existing departments, offices and agencies of the state and of its various political subdivisions, and the officers and personnel of all such departments, offices and agencies of the state and of its various political subdivisions, and the officers and personnel of all such departments, offices, and agencies of this city are directed to cooperate with and extend such services and facilities of the city to the governor and the state civil defense agency as may be requested.

(Code 1973, § 4.13(f); Ord. No. 85-2054, § 1(4.38(f)), 2-12-85)

Sec. 10-22. - Assistance to city.

Whenever the federal government or state government, or officer or agency thereof, shall offer to the city, or through the state to the city, any services, equipment, supplies, material or funds by way of gift, grant or loan, for the purpose of civil defense, the city may accept such offer and upon acceptance, the city manager may authorize any officer of the city to receive such services, equipment, supplies, materials or funds on behalf of the city subject to the terms of the offer.

(Code 1973, § 4.13(g); Ord. No. 85-2054, § 1(4.38(g)), 2-12-85)

State Law reference— Authority of state to accept federal civil defense assistance, RSMo 44.028.

Sec. 10-23. - Emergencies.

In the event of an emergency as defined in RSMo Ch. 44, the coordinator of the department of civil defense is authorized on behalf of the city, to procure such services, supplies, equipment or material as may be necessary for such purposes, in view of the exigency without regard to the statutory procedures or formalities normally prescribed by law pertaining to municipal contracts or obligations, as authorized by the RSMo Ch. 44, provided that, if the council meets at such time, he shall act subject to the directions and restrictions imposed by the council and by the city manager. In the event of enemy attack, the city manager may waive any time-consuming procedures and formalities otherwise required by statute or charter pertaining to the advertisement for bids for the performance of public work or entering into contracts.

(Code 1973, § 4.13(h); Ord. No. 85-2054, § 1(4.38(h)), 2-12-85)

Sec. 10-24. - Office.

The city manager, with approval of the council, is authorized to designate space in any municipally owned or leased building for the department of civil defense as its office.

(Code 1973, § 4.13(j); Ord. No. 85-2054, § 1(4.38(j)), 2-12-85)

Sec. 10-25. - Political activity by department prohibited.

The department of civil defense shall not participate in any form of political activity, nor shall it be used directly or indirectly for political purposes.

State Law reference— Similar provisions, RSMo 44.113.

Sec. 10-26. - Oath of personnel.

Every person appointed to serve in any capacity in the department of civil defense shall, before entering upon his duties, subscribe to the following oath, which shall be filed with the coordinator of such department:

"I, _____, do solemnly swear (or affirm) that I will support and defend and bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of Missouri, and the territory, institutions and facilities thereof, both public and private, against all enemies, foreign and domestic; that I take this obligation freely, without any mental reservations or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I, nor have I been, a member of any political party or organization that advocates the overthrow of the Government of the United States or this state by force or violence; and that during such times as I

am affiliated with the Civil Defense Department of the City of Ferguson, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the Government of the United States or of this state by force or violence."

(Code 1973, § 4.13(i); Ord. No. 85-2054, § 1(4.38(i)), 2-12-85)

State Law reference— Similar provisions, RSMo 44.115.

Secs. 10-27—10-40. - Reserved.

ARTICLE III. - CIVIL EMERGENCIES

Sec. 10-41. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Civil emergency shall mean a riot or unlawful assembly characterized by the use of force or violence, civil commotion or uprising or any natural or man-made disaster or calamity; or imminent danger of any of the foregoing.

Mayor shall mean the mayor of the city, or in his absence or inability to act, the mayor pro tempore.

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 10-42. - Mayor to proclaim existence of civil emergency.

When in the judgment of the mayor a civil emergency is deemed to exist, he shall forthwith proclaim in writing the existence thereof.

(Code 1973, § 51.37)

Sec. 10-43. - Notification of public.

Any proclamation of a civil emergency shall be promptly communicated to all available news media for dissemination to the public, and the original thereof shall be filed in the office of the city clerk.

Sec. 10-44. - Curfew.

After the proclamation of a civil emergency by the mayor, he may order a general curfew applicable to such geographical areas of the city or to the city as a whole as he may deem advisable, and the curfew shall be applicable during the hours of the day or night as he may deem necessary in the interest of public safety and welfare. In the designated areas and during the designated hours of any such curfew, all persons shall remove themselves to and remain in their places of residence, remain off and away from the public streets, sidewalks, parks and all other public or open places; and no persons shall loiter or gather together in groups at any place for any purpose whatsoever; provided, that persons performing medical services, essential public utility services, public officials, law enforcement officers, firemen and other persons officially designated to perform some duty with reference to the civil emergency are exempt from the curfew.

(Code 1973, § 51.37)

Cross reference— Curfew for persons under eighteen, § 29-91.

Sec. 10-45. - Powers of mayor.

After the proclamation of a civil emergency, the mayor shall, in addition to all other powers granted to him by the laws of the state, this Code and other ordinances of the city, be empowered in the interest of the public safety and welfare and to preserve the peace and order of the city, to exercise any or all of the powers hereinafter granted, as follows:

- (1) To order all policemen, auxiliary policemen, firemen and any other city employee to report for immediate duty as he may direct;
- (2) To order the closing of any and all business establishments throughout the city or any portion thereof during the period for which the civil emergency exists or during the hours of curfew;
- (3) To order a reduction in the use of all utilities throughout the city during the state of civil emergency;
- (4) To order the discontinuance of the selling, distributing, dispensing or giving away of any firearms or other weapons of any character whatsoever;
- (5) To order the closing of any and all establishments or portions thereof, which may be engaged in the sale, distribution, dispensing or giving away of firearms, ammunition or other weapons of any character whatsoever;
- (6) To order the closing of all retail and wholesale liquor stores, taverns and other places dispensing, serving or permitting the consumption of intoxicating liquors or nonintoxicating beer;
- (7) To order the discontinuance of the sale, distribution or giving away of intoxicating liquor or nonintoxicating beer;
- (8) To order the closing of all private clubs or portions thereof wherein the consumption of intoxicating liquor or nonintoxicating beer is permitted;
- (9) To order the discontinuance of the selling, distribution or giving away of gasoline or other flammable liquids or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle;
- (10) To order the closing of gasoline stations and other establishments engaged in the sale, distribution or dispensing of gasoline or other flammable liquids or combustible products;
- (11) To order any public place or building, public street or alley, sidewalk, parking area and any other place closed to motor vehicles, persons and pedestrian traffic;
- (12) To order the doing of or refraining from all acts necessary and incidental to the protection of life and property.

Sec. 10-46. - Proclamation to remain in effect; council to have power to terminate.

A proclamation issued in accordance with the provisions of this article shall remain in effect continuously from the date and time of the issuance thereof for such a period of time as may specifically be prescribed therein or upon the issuance of a proclamation determining the civil emergency no longer exists, whichever occurs first; provided, the council shall have the power to terminate civil emergency at any time.

Chapter 13 - COURT^[1]

Footnotes:

--- (1) ---

Cross reference— *Administration generally, Ch. 2; city attorney, § 2-91 et seq.; department of law, municipal court, § 2-211 et seq.; human rights, Ch. 21; police, Ch. 33.*

State Law reference— *Municipal court, RSMo Ch. 479.*

ARTICLE I. - IN GENERAL

Sec. 13-1. - Established.

There is hereby established a court in the city to be known as the municipal court.

(Code 1973, § 9.01)

Sec. 13-2. - Jurisdiction.

The original jurisdiction of the municipal court shall extend to all cases involving alleged violations of this Code and all other ordinances of the city, and to violations of provisions of the Charter.

(Code 1973, § 9.03)

State Law reference— Jurisdiction of municipal court, RSMo 479.010, 479.020(1).

Sec. 13-3. - Superintending authority.

The municipal court shall be subject to the rules of the circuit court of which it is a part, and to the rules of the state supreme court. The municipal court shall be subject to the general administrative authorities of the presiding judge of the circuit court, and the judge and court personnel of the municipal court shall obey his directives.

(Code 1973, §§ 9.02, 9.06)

State Law reference— Superintending authority, RSMo 479.020(5).

Sec. 13-4. - Court room, court personnel.

Unless otherwise provided, the council chambers of the city are hereby designated as the municipal court room. The city manager is hereby directed to provide the necessary clerks and any other nonjudicial personnel required for the proper functioning of the court, and the director of finance is hereby authorized and directed to pay the salaries of clerks and other nonjudicial personnel and the other expenses incidental to the operation of the municipal court.

(Code 1973, § 9.11)

State Law reference— Municipalities to provide court personnel and courtroom, RSMo 479.060(1).

Sec. 13-5. - Municipal prosecutor.

The city attorney and assistant city attorney are hereby designated to prosecute violations of the provisions of this code, the other ordinances of the city, or the Charter of the city. The compensation of the city attorney and assistant city attorney shall be set by ordinance and paid by the city.

(Code 1973, § 9.13)

Cross reference— City attorney, § 2-91 et seq.

State Law reference— Similar provisions, RSMo 479.120.

Sec. 13-6. - Temporary municipal prosecutor.

In the absence of the city attorney or his assistants or any person prosecuting in his stead, when any suit in which the city is plaintiff, is about to be tried, the municipal judge may, if he deems it necessary, appoint some person to prosecute on behalf of the city, who shall, during the time he is so acting, possess all the powers vested in the city attorney.

(Code 1973, § 9.43)

Sec. 13-7. - Clerk of municipal court and of the traffic violations bureau.

There is hereby established a clerk of the municipal court and of the traffic violations bureau. The duties of the clerk shall be to:

- (1) Collect all fines as assessed for violation of all offenses, and to collect court costs therefore;
- (2) Take oaths and affirmations;
- (3) Accept signed complaints and to allow the same to be signed and sworn to or affirmed before him;
- (4) Sign and issue subpoenas requiring the attendance of witnesses and to sign and issue subpoena duces tecum;
- (5) Accept the appearance, waiver of trial and plea of guilty and payment of fine and costs in the traffic violations bureau or as directed by the municipal judge; and to generally act as violations clerk in the traffic violations bureau;
- (6) Maintain a current certified copy of this Code and the Charter, and obtain a certified copy of all ordinances not contained in this Code;
- (7) Pay over to the director of finance or his representative, all fines and costs collected in the municipal court and traffic violations bureau, not less than once monthly;
- (8) Perform all other duties as provided by ordinance, by the rules of practice and procedures of the municipal court or rules of practice and procedure of the circuit court for municipal courts, or by the rules of the state supreme court as they are currently in effect or as they may hereafter be changed or amended, or as required by statute.

(Code 1973, § 9.31)

Cross reference— Officers and employees generally, § 2-46.

State Law reference— Municipalities to provide for clerks, RSMo 479.060(1); clerks of courts of records and court records, RSMo Ch. 483.

Sec. 13-8. - Traffic violations bureau.

The traffic violations bureau shall operate under the supervision of the circuit court and of the municipal judge and shall be operated in accordance with the rules of the state supreme court and the rules of the circuit court. All expenses incident to the operation of the traffic violations bureau, including salaries of clerical help, shall be paid out of city funds. The city shall provide suitable quarters for the traffic violations bureau, and all fines and costs collected shall be turned over to the director of finance.

(Code 1973, § 9.10)

State Law reference— Traffic violations bureau, RSMo 479.050.

Sec. 13-9. - Judicial notice of municipal law.

In the trial of violations of this Code or any other ordinance or the Charter, a copy of this Code, any other ordinance or the Charter certified by the city clerk shall constitute prima facie evidence of such ordinance. If such certified copy is on file with the clerk serving the judge having the case and is readily available for inspection by the parties, the municipal judge may take judicial notice of such provision of the Code, ordinance or Charter without further proof.

(Code 1973, §§ 9.30, 9.31(7))

Charter reference— Judicial notice of Charter, § 11.1; proof of ordinances, § 11.5.

State Law reference— Judicial notice of municipal ordinances, RSMo 82.200, 479.250.

Secs. 13-10—13-25. - Reserved.

ARTICLE II. - MUNICIPAL JUDGE^[2]

Footnotes:

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Cross reference— *Officers and employees generally, § 2-46 et seq.; municipal judge, §§ 2-217, 2-218.*

Sec. 13-26. - Selection; qualifications; term.

The persons elected as municipal judge as provided in the administrative code shall be an attorney-at-law licensed to practice in the state. The municipal judge shall not hold any other office within the city government. He shall reside in the state and be over twenty-one (21) years of age, and shall be elected for a two-year term. He shall take office bi-annually on July 1 of every even-numbered year. If, for any reason, the municipal judge shall resign, die or the office shall become vacant for any reason set forth in section 13-27, his successor shall complete that term of office, even though the remainder of the term is less than two (2) years.

(Code 1973, § 9.04)

State Law reference— Selection, tenure, qualifications of municipal judge, RSMo 479.020(1), (3), (4), (6), (7).

Sec. 13-27. - Vacation of office.

The municipal judge shall vacate his office under the following circumstances:

- (1) Upon removal from office by the state commission on retirement, removal and discipline of judges, as provided in supreme court rule No. 12;
- (2) Upon obtaining his seventieth birthday;
- (3) If his license to practice law in the state is suspended, revoked or surrendered.

(Code 1973, § 9.05; Ord. No. 94-2708, § 1, 4-26-94)

Sec. 13-28. - Compensation.

The compensation of the municipal judge shall be set by ordinance for the term of his office and shall in no way be dependent upon the number of cases tried, the number of guilty verdicts reached or the amount of fines imposed or collected.

(Code 1973, § 9.12)

State Law reference— Similar provisions, RSMo 479.020(6).

Sec. 13-29. - Duties and powers.

- (a) The municipal judge shall be a conservator of the peace. He shall keep a docket in which he shall enter every case commenced before him and the proceedings therein and he shall keep such other records as may be required. Each docket and records shall be records of the circuit court. The municipal judge shall deliver the docket and records of the municipal court, and all books and papers pertaining to his office, to his successor in office or to the presiding judge of the circuit.
- (b) The municipal judge shall be and is hereby authorized to:
 - (1) Administer oaths and enforce due obedience to all orders, rules and judgments by him, and fine and imprison for contempt committed before him while holding court, in the same manner and to the same extent as the circuit judge;
 - (2) Commute the term of any sentence, stay execution of any fine or sentence, suspend any fine or sentence and make such other orders as he deems necessary or relative to any matter that may be pending in the municipal court;
 - (3) Make and adopt such rules of practice and procedure as are necessary to implement and carry out the provisions of this chapter, to make and adopt such rules of practice and procedure as are necessary to hear and decide matters pending before the municipal court and to implement and carry out the provisions of the rules of practice and procedure for municipal and traffic courts. Any and all rules made or adopted hereunder may be annulled or amended by any ordinance limited to such purpose; provided that such ordinance does not violate or conflict with the provisions of the state rules of practice and procedure for municipal and traffic courts or state statutes;
 - (4) Establish by court order, the violations within the authority of the traffic violation bureau and the fines and costs to be imposed for each violation; increased or double fines may be established by the municipal judge for violations occurring in special enforcement areas such as school speed limit zones and "safe streets";
 - (5) Have such other powers, duties and privileges as are or may be prescribed by state law, this Code or other ordinances of the city.

(Code 1973, §§ 9.08, 9.09; Ord. No. 2005-3246, § 2, 9-13-05)

State Law reference— Duties and powers of municipal judge, RSMo 479.070.

Sec. 13-30. - Monthly report; transfer of funds collected.

- (a) The municipal judge shall cause to be prepared within the first ten (10) days of each month, a report containing a list of all cases heard and tried before the court during the preceding month, giving in each case, the name of the defendant, the fine imposed, if any, the amount of costs, the names of the defendants committed and the cases where there was an application for trial de novo, respectively. The report shall be prepared under oath by the municipal court clerk or the municipal judge. The monthly report will be filed with the city clerk, who shall thereafter forward the same to the council for examination at its first session thereafter.
- (b) The municipal court shall, within the ten (10) days after the first of the month, pay to the director of finance the full amount of all fines and costs collected during the preceding month, if they have not previously been paid.

(Code 1973, § 9.07)

State Law reference— Municipal judge's monthly report, transfer of funds collected, RSMo 479.080(3).

Sec. 13-31. - Temporary municipal judge.

If the municipal judge shall be absent, sick or disqualified from acting, the mayor may designate such competent, eligible person to act as municipal judge until such absence shall cease. The temporary municipal judge shall be compensated by the city as provided by ordinance.

(Code 1973, § 9.29)

State Law reference— Similar provisions, RSMo 479.230.

Secs. 13-32—13-45. - Reserved.

ARTICLE III. - PROCEDURE

Sec. 13-46. - Prosecutions; proceedings.

All prosecutions for the violation of municipal ordinances shall be instituted by information and may be based upon a complaint. Proceedings shall be in accordance with the state supreme court rules governing practice and procedure in proceedings before municipal judges.

(Code 1973, §§ 9.18—9.22)

State Law reference— Similar provisions, RSMo 479.090.

Sec. 13-47. - Service against city.

All processes and notices which it may be necessary, in any suit before the municipal judge, to serve on the city, shall be served on the city attorney or the city clerk.

(Code 1973, § 9.42)

Charter reference— Notice of suits, § 11.3.

Sec. 13-48. - Affidavits for city.

When an affidavit on the part of the city shall be required in any cause which has originated in the municipal court, it shall be made by the city attorney or prosecutor or by any person to whom the facts are known.

(Code 1973, § 9.41)

Sec. 13-49. - Depositions.

In the municipal court, depositions, the examination of witnesses and the perpetuation of testimony shall be as provided in RSMo 492.010 to 492.590, which sections are hereby adopted by reference and made a part hereof as if fully set out in this section.

(Code 1973, § 9.40)

Sec. 13-50. - Issuance, execution of warrants.

All warrants issued by the municipal judge shall be directed to the chief of police or any police officer of the city, or to the sheriff of the county. The warrants shall be executed by the chief of police, police officer or sheriff at any place within the county, and not elsewhere, unless the warrants are endorsed in the manner provided for warrants in criminal cases, and when so endorsed, shall be served in other counties as provided for in warrants in criminal cases.

(Code 1973, § 9.16)

State Law reference— Similar provisions, RSMo 479.100.

Sec. 13-51. - Arrest without warrant.

The chief of police or other police officer shall, without a warrant, make arrest of any person who commits an offense in his presence or out of his presence, subject to the provisions of section 33-22, but any such officer shall, before the trial, file a written complaint with the municipal judge. All provisions of the supreme court rule no. 37.17 pertaining to such arrests shall apply thereto.

(Code 1973, § 9.17)

State Law reference— Similar provisions, RSMo 479.110.

Sec. 13-52. - Bail and surety.

- (a) Any person arrested for a violation of this Code or of any ordinance or of the Charter may be admitted to bail by executing a bond to the city with sufficient surety. Any such bond shall be approved by the municipal judge, by the chief of police or by the clerk of the municipal court in the order named, of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00), conditioned that such person will appear on a day therein specified, before the municipal court, to await his trial on the charges against him. All bonds taken shall be immediately filed with the clerk of the municipal court by the officer approving such bond, and the same shall be deposited in a safe place which is not accessible to the public.
- (b) Procedures relating to bail and sureties shall be governed by supreme court rules nos. 37.95 through 37.111, which rules are hereby adopted by reference as the rules of the municipal court relating to bail and sureties.

(Code 1973, § 9.14)

Sec. 13-53. - Trial of defendants.

At the opening of the municipal court, the chief of police shall bring before the court, for trial, all persons who may be in custody for violation of any provision of this Code or any other ordinance or of the Charter, and the jail keeper shall, for this purpose, deliver to the chief of police all the prisoners in his keeping; provided, however, that no party whose case has been continued to a later day, shall be required to be brought before the court.

(Code 1973, § 9.35)

Sec. 13-54. - Judge trials.

In any trial for the violation of this Code or any other city ordinance, all issues of fact shall be tried by the municipal judge except where trial by jury is authorized by law and the defendant or his attorney requests a trial by jury.

State Law reference— Similar provisions, RSMo 479.140.

Sec. 13-55. - Jury trials.

Any person charged with a violation of this Code or any other city ordinance shall be entitled to a trial by jury, as in prosecutions for misdemeanors before an associate circuit judge. When a defendant demands a trial by jury, the municipal court shall certify the case to the presiding judge of the circuit court for reassignment, as provided in RSMo 517.520(2).

State Law reference— Similar provisions, RSMo 479.150(1).

Sec. 13-56. - Summoning of witnesses.

- (a) It shall be the duty of the municipal judge to summon all persons whose testimony shall be deemed essential as witnesses at the trial, and to enforce their attendance, by attachment, if necessary. The fees for witnesses shall be the same as those fixed for witnesses in trials before associate circuit judges and shall be taxed as other costs in the case.
- (b) When a trial shall be continued by the municipal judge, it shall not be necessary to summon any witnesses who may be present at the continuance; but the municipal judge shall orally notify such witnesses as either party may require to attend before him on the day set for trial to testify in the case, and enter the names of such witnesses on his docket, which oral notice shall be valid as a summons.

(Code 1973, § 9.23)

State Law reference— Similar provisions, RSMo 479.160.

Sec. 13-57. - Police officers' attendance as witnesses.

Police officers shall attend as witnesses against persons whom they shall have arrested without being summoned. If an officer fails to appear at the time of trial without having been excused by the court, he may be attached and punished for contempt as witnesses summoned.

(Code 1973, § 9.38)

Sec. 13-58. - Reserved.

Editor's note— Ord. No. 2014-3566, § 1, adopted Sept. 23, 2014, repealed § 13-58 which pertained to failure to appear upon arrest or summons and derived from the original codification.

Sec. 13-59. - Transfer of complaint to associate circuit judge.

If, in the progress of any trial before a municipal judge, it shall appear to the judge that the accused ought to be put upon trial for an offense against the criminal laws of the state and not cognizable before him as a municipal judge, he shall immediately stop all further proceedings before him and cause the complaint to be made before an associate circuit judge of the county.

(Code 1973, § 9.24)

State Law reference— Similar provisions, RSMo 479.170.

Sec. 13-60. - Reserved.

Editor's note— Ord. No. 2015-3582, § 1, adopted May 26, 2015, repealed § 13-60, which pertained to withdrawal of complaints and derived from Code 1973, § 9.37; Ord. No. 2009-3398, § 1, adopted May 26, 2009.

Sec. 13-61. - Dismissal of trivial offenses.

Whenever a defendant is proven guilty of a violation of a provision of this Code, or any other ordinance, which violation is, in the judgment of the municipal judge, of a trivial nature, he may, at his discretion, dismiss the defendant on payment of costs.

(Code 1973, § 9.36)

Sec. 13-62. - Jailing of defendants.

If, in the opinion of the municipal judge, the city has not suitable and safe place of confinement, the judge may commit the defendant to the county jail, and it shall be the duty of the sheriff, if space for the prisoner is available in the county jail, upon receipt of a warrant of commitment from the judge to receive and safely keep such prisoner until discharged by due process of law. The city shall pay the board of such prisoner at the same rate as may now or hereafter be allowed to such sheriff for the keeping of such prisoner in his custody. Such amount shall be taxed as costs. Any defendant committed under the provisions of this section may be discharged upon payment of fine and costs assessed, or upon perfecting an appeal as provided in this article.

(Code 1973, § 9.25)

State Law reference— Similar provisions, RSMo 479.180.

Sec. 13-63. - Parole and probation.

Any municipal judge hearing municipal ordinance violations, upon a plea or finding of guilt, may suspend the imposition of sentence or the execution of sentence and place the defendant on probation or parole for a period not to exceed two years. The judge may also impose such conditions of probation or parole as the judge finds reasonably necessary to ensure future compliance with law and the successful completion of the term of probation and to provide compensation or other consideration to the victim and society. Such conditions may include, but shall not be limited to, restitution to the victim(s) of the ordinance violation; alternative community service; completion of specialized classes, training or counseling; compensation to the city for costs incurred for the defendant's arrest and incarceration and for the prosecution of the ordinance violation; and the payment by the defendant of a special deterrent fee to the municipal court, the amount of which may not exceed the maximum amount of the fine permitted to be imposed on conviction of the charge at issue, as provided in this Code.

(Code 1973, § 9.26; Ord. No. 2011-3464, § 1, 5-10-11)

State Law reference— Similar provisions, RSMo 479.190.

Sec. 13-64. - Right of appeal—Generally.

In any case tried before the municipal judge, except where there has been a plea of guilty, the defendant shall have a right to a trial de novo before a circuit judge or upon assignment before an associate judge. An application for a trial de novo shall be filed within ten (10) days after judgment and shall be filed in such form and perfected in such manner as is provided by supreme court rule.

(Code 1973, § 9.27)

State Law reference— Similar provisions, RSMo 479.200(2).

Sec. 13-65. - Same—From jury verdicts.

In all cases in which a jury trial has been demanded, a record of proceedings shall be made, and appeals may be had upon that record to the appropriate appellate court.

State Law reference— Similar provisions, RSMo 479.200(3).

Sec. 13-66. - Breach of recognizance.

In the case of a breach of any recognizance entered into before a municipal judge, the same shall be deemed forfeited and the judge shall cause the same to be prosecuted against the principal and the surety, or either of them, in the name of the city as plaintiff. Such action shall be prosecuted before a circuit judge or associate circuit judge upon a transcript of the proceedings before the municipal judge. All monies recovered in such actions shall be paid over to the director of finance for the general revenue fund of the city.

(Code 1973, § 9.15)

State Law reference— Similar provisions, RSMo 479.210.

Sec. 13-67. - Disqualification of municipal judge.

A municipal judge shall be disqualified to hear any case in which he is any wise interested, or, if before trial is commenced, the defendant or the prosecutor files an affidavit that the defendant or the city, as the case may be, cannot have a fair and impartial trial by reason of the interest or prejudice of the judge. Neither the defendant nor the city shall be entitled to file more than one (1) affidavit or disqualification in the same case.

(Code 1973, § 9.28)

State Law reference— Similar provisions, RSMo 479.220.

Sec. 13-68. - Installment payment of fines.

If a fine is assessed for violation of this Code or any other city ordinance, it shall be within the discretion of the municipal judge assessing the fine, to provide for the payment of a fine on an installment basis under such terms and conditions as he may deem appropriate.

State Law reference— Similar provisions, RSMo 479.240.

Sec. 13-69. - Costs assessed against prosecuting witness.

The costs of any action may be assessed against the prosecuting witness and judgement be rendered against him that he pay the same and stand committed until paid in any case where it appears to the satisfaction of the municipal judge that the prosecution was commenced without probable cause and from malicious motives.

(Code 1973, § 9.33)

Sec. 13-70. - Court costs.

(a) The municipal judge may assess, in appropriate cases, the following fees:

- (1) *Generally.* Against a defendant who pleads guilty, who is found guilty, or where the case is dismissed by the prosecutor on payment of court costs, court costs in an amount of twelve dollars (\$12.00) per case for each code or other municipal ordinance violation case filed, except in those cases where the defendant is found by the judge to be indigent and unable to pay the costs.
- (2) *Serving warrants.* There shall be taxed as additional costs in any case for each warrant, commitment or summons, an amount as would be provided by an associate circuit judge in criminal prosecutions.
- (3)

Mileage. Mileage shall be taxed as additional costs in the same amount as provided to the sheriff in criminal violations for each mile or fraction thereof, both ways, in order to serve a warrant, commitment or order of the court.

- (4) *Expert testimony.* In addition to all other court costs, if it becomes necessary for the prosecution of a case for a charge of driving while under the influence of intoxicating liquor or narcotic drugs, to call expert witnesses to testify, and if the defendant is found guilty of such charge, the costs incurred by the prosecution for such expert testimony shall be assessed as costs against the defendant in addition to all other costs provided for.
- (5) *Sheriff's costs.* Actual costs assessed against the city by the sheriff for apprehension or confinement in the county jail shall be assessed against all defendants who plead or are found guilty.
- (6) *Appeals.* Upon appeal to the circuit court from the municipal court, the defendant shall deposit with the city the amount of court costs required for an appeal to the circuit court as required by the rules of such court. The city shall pay such cost deposit to the circuit clerk upon filing of the transcript for trial de novo.
- (7) *Domestic violence shelter.* The municipal judge, in addition to other court costs provided by ordinance, shall assess court costs in the amount of two dollars (\$2.00) for each court proceeding filed in the municipal court except where the proceeding is dismissed by the court. Such costs shall be collected by the court and disbursed to St. Louis County at least monthly to be used for the purpose of providing operating expenses for domestic violence shelters for battered persons.
- (8) In addition to any other fines or court costs provided in this Code pertaining to cases filed in the Ferguson Municipal Court, an additional sum of seven dollars and fifty cents (\$7.50) shall be assessed as a surcharge in each proceeding filed in the Ferguson Municipal Court for the violation of the ordinances of said city, provided that no such fee shall be collected in any proceeding when the proceeding or the defendant has been dismissed by the court. All sums collected pursuant to this subsection shall be distributed as follows:
 - a. Ninety-five (95) percent of such sums shall be paid to the Director of Revenue of the State of Missouri for deposit to the crime victims.
 - b. Five (5) percent of such sums shall be paid to the city treasury.
- (9) In addition to any other fines or court costs provided in this Code pertaining to cases filed in the Ferguson Municipal Court, an additional sum of two dollars (\$2.00) shall be assessed as surcharge in each proceeding filed in the Ferguson Municipal Court for the violation of the ordinances of said city, provided that no such fee shall be collected in any proceeding when the proceeding or the defendant has been dismissed by the court. All sums collected pursuant to this subsection shall be transferred to the finance officer of the city who shall deposit the funds into an "Inmate Security Fund" to be utilized for the purposed as set forth in Section 488.5026 RSMo.
- (b) No fees for the municipal judge, city attorney or prosecutor shall be assessed as costs in any Code, ordinance or Charter violation case.
- (c) Court costs authorized in subsection (a) shall be collected by the court clerk and transmitted not less frequently than once a month to the city treasurer.

(Code 1973, § 9.32(a)—(f), (h), (i); Ord. No. 88-2259, § 1, 2-9-88; Ord. No. 97-2885, § 1, 1-14-97; Ord. No. 99-3060, § 1, 11-9-99; Ord. No. 2001-3128, § 1, 9-11-01; Ord. No. 2006-3278, § 1, 7-25-06; Ord. No. 2009-3397, § 1, 5-26-09; Ord. No. 2014-3564, § 1, 9-23-14)

Cross reference— Additional court costs imposed for charges of driving while intoxicated, § 44-109.

State Law reference— Court costs, RSMo 489.260.

Sec. 13-71. - Same—Assessment of additional costs to be used in training police officers.

- (a) The municipal judge, in addition to other court costs provided by ordinance, shall assess as court costs the amount of two dollars (\$2.00) for each court proceeding filed in municipal court except where the proceeding is dismissed by the court. All fees collected pursuant to this section shall be transmitted monthly to the treasurer of the city to be used for the training of law enforcement officers.
- (b) The municipal judge, in addition to other court costs provided by ordinance, shall assess as court costs the amount of one dollar (\$1.00) for each court proceeding filed in municipal court except that no such fee shall be collected in any proceeding in which the defendant has been dismissed by the court. This additional one-dollar court cost shall be in addition to the costs set forth in section 13-71(a). The additional one dollar (\$1.00) of court costs provided herein shall be deposited into the peace officers' standards and training commission fund, to be used statewide for training of law enforcement officers. Said funds shall be payable to the Treasurer, State of Missouri, to be paid as provided in RSMO 593.140.

(Code 1973, § 9.32(g); Ord. No. 88-2260, § 1, 2-9-88; Ord. No. 95-2808, § 1, 12-12-95; Ord. No. 97-2952, § 1, 10-28-97)

State Law reference— Similar provisions, RSMo 590.140.

Sec. 13-72. - Reserved.

Editor's note— Ord. No. 2014-3564, § 2, adopted Sept. 23, 2014, repealed § 13-72 which pertained to the court service cost and derived from Ord. No. 95-2763, § 1, adopted March 14, 1995.

Sec. 13-73. - Search warrants.

- (a) The municipal judge of the City of Ferguson shall have the authority to issue search warrants for searches or inspections to determine the existence of violations of any ordinance whose violation is punishable by fine or jail or both.
- (b) Warrants and searches or inspections made pursuant thereto shall conform to and be governed by the following provisions:
 - (1) Any police officer, the city attorney, or prosecuting attorney of the City of Ferguson may make application for the issuance of a search warrant.
 - (2) The application shall:
 - a. Be in writing;
 - b. State the time and date of making the application;
 - c. Identify the property or places to be searched in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
 - d. State facts sufficient to show probable cause for the issuance of a search warrant to search for violations of any provision of the ordinances of the City of Ferguson specified in the application;
 - e. Be verified by the oath or affirmation of the applicant; and
 - f. Be filed in the Municipal Court of the City of Ferguson.

(3)

The application shall be supplemented by written affidavits verified by oath or affirmation. Such affidavits shall be considered in determining whether there is probable cause for the issuance of a search warrant and in filling out any deficiencies in the description of the property or places to be searched. Oral testimony shall not be considered.

- (4) The judge shall hold a non-adversarial hearing to determine whether sufficient facts have been stated to justify the issuance of a search warrant. If it appears from the application and any supporting affidavits that there is probable cause to inspect or search for violations of any specified provision of the ordinances of the city, a search warrant shall immediately be issued to search for such violations. The warrant shall be issued in the form of an original and two (2) copies.
- (5) The application and any supporting affidavits and a copy of the warrant shall be retained in the records of the court.
- (6) The search warrant shall:
 - a. Be in writing and in the name of the issuing authority;
 - b. Be directed to any Ferguson police officer;
 - c. State the time and date the warrant is issued;
 - d. Identify the property or places to be searched in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
 - e. Command that the described property or places be searched and that any photographs of violations found thereon or therein be brought, within ten (10) days after issuance of the warrant, to the municipal judge who issued the warrant to be dealt with according to law; and
 - f. Be signed by the municipal judge, with his or her title of office indicated.
- (7) A search warrant issued under this section may be executed only by a police officer. The warrant shall be executed by conducting the search commanded.
- (8) A search warrant shall be executed as soon as practicable and shall expire if it is not executed and the return made within ten (10) days after the date of the issuance of the warrant.
- (9) After execution of the search warrant, the warrant, with a return thereon signed by the officer making the search, shall be delivered to the municipal judge who issued the warrant. The return shall show the date and manner of execution and the name of the possessor and of the owner of the property or places searched when he is not the same person, if known.
- (10) A search warrant shall be deemed invalid:
 - a. If it is not issued by a judge of the municipal court of the City of Ferguson; or
 - b. If it was issued without a written application having been filed and verified; or
 - c. If it was issued without probable cause; or
 - d. If it was not issued with respect to property or places within the jurisdiction of the chapter on which the ordinance violation was based; or
 - e. If it does not describe the property or places to be searched with sufficient certainty; or
 - f. If it is not signed by the municipal judge who issued it; or
 - g. If it is not executed within ten (10) days after the date upon which the warrant was issued.
- (11) An officer making a search pursuant to an invalid warrant, the invalidity of which is not apparent on its face, may use such force as would be justified if the warrant were valid.

- (12) The officer may summon as many persons as deemed necessary to assist in executing the warrant. Such person shall not be held liable as a result of the illegality of the search and seizure.
- (13) If any property is seized, the officer shall give the person from whose possession it is taken, if the person is present, a copy of the warrant and an itemized receipt for the property taken. If no person is present, the officer shall leave the copy and the receipt at the site of the search.
- (14) A copy of the itemized receipt of any property taken shall be delivered to the office of the city attorney or the prosecuting attorney within two (2) working days of the search.
- (15) The disposition of the property seized pursuant to a search warrant under this section shall be in accordance with Section 542.301 of the Revised Statutes of Missouri.

(Ord. No. 97-2967, § 1, 12-9-97)

Chapter 17 - FIRE PREVENTION AND PROTECTION^[1]

Footnotes:

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Cross reference— *Buildings and building regulations, Ch. 7; restrictions on sale or use of fireworks, § 29-106; fire regulations for public parks, § 30-63; police, Ch. 33.*

State Law reference— *Fire protection, RSMo 71.370 et seq.; fire protection regulations, RSMo Ch. 320.*

ARTICLE I. - IN GENERAL

Secs. 17-1—17-15. - Reserved.

ARTICLE II. - FIRE DEPARTMENT^[2]

Footnotes:

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Cross reference— *Departments, § 2-201 et seq.; fire department, § 2-236; duty of fire department employees to report dangerous buildings, § 7-203; obedience to fire department officials, § 44-4; directing of traffic by fire department officials, § 44-34; following fire apparatus, § 44-93; crossing fire hoses prohibited, § 44-94; fire alarm systems, § 45-39.*

State Law reference— *City police and fire departments generally, RSMo Ch. 85.*

DIVISION 1. - GENERALLY

Sec. 17-16. - Created; commanding officer.

There is hereby created a department of the city government to be known as the fire department, the commanding officer of which shall be the fire chief.

(Code 1973, § 7.01)

Cross reference— Officers and employees generally, § 2-46.

Sec. 17-17. - Composition.

The fire department shall consist of a fire chief, such officers within the department as may be deemed necessary for the proper performance of the duties of the department and such number of fire fighters and probationers as may be authorized from time to time.

(Code 1973, § 7.01)

Sec. 17-18. - Powers and duties.

The fire department shall have the superintendence and control of all engines and engine houses and fire and life-saving apparatus and equipment of every kind belonging to the city. It shall be the duty of members of the fire department to protect the citizens of the city and all property located therein against fires, to carry out and enforce all ordinances relating to fire protection and prevention, and perform such other duties as may be assigned to them.

(Code 1973, § 7.02)

Sec. 17-19. - Duties of fire chief.

- (a) *Command.* The fire chief shall have general supervision and control of the fire department, including the enforcement of discipline among the members thereof and the instruction of the members in the duties of their employment.
- (b) *Rules and regulations.* The fire chief shall, with the approval of the city manager, make rules and regulations for the fire department.
- (c) *Auxiliary corps.* The fire chief shall, with the approval of the city manager, appoint members of the auxiliary corps. They shall be appointed for such terms as he shall determine and may be removed or suspended by him.
- (d) *Command at fires.* The fire chief or assistant fire chief shall attend all fires in the city and shall direct such operations as may be necessary to extinguish or control any suspected or reported fires, gas leaks or other hazardous conditions or situations or of taking any other action necessary in the reasonable performance of their duty. The fire chief may prohibit any person, vehicle or object from approaching the scene and may remove or cause to be removed from the scene any person, vehicle or object which may impede or interfere with the operations of the fire department. The fire chief may remove or cause to be removed any person, vehicle or object from hazardous areas. All persons ordered to leave a hazardous area shall do so immediately and shall not re-enter the area until authorized to do so by the fire chief.
- (e) *Monthly reports.* The fire chief shall make a monthly report to the city manager on the first day of each month setting forth a list of the fires in the city for the month next preceding, the number of false fire alarms, the estimated amount of property destroyed and such other statistics in relation to losses, insurance and the cause of fire as he may be able to procure, a list of the members of the auxiliary corps who have engaged in fighting fires for the month next preceding, and the compensation each is entitled to, a list of the calls from outside the city which the department has answered, and such other information and suggestions in relation to the fire department as he may deem expedient or necessary.

(Code 1973, §§ 7.03, 26A.2)

Sec. 17-20. - Assistant fire chiefs.

- (a) In the event of the incapacity or absence of the fire chief, the assistant fire chief on duty shall be charged with the duties of the fire chief.
- (b) The assistant fire chiefs shall be the supervisors of the fire department and shall be in command of the fire department under the direction of the fire chief.

(Code 1973, § 7.05)

Cross reference— Officers and employees generally, § 2-46.

Sec. 17-21. - Duties of captains.

Captains shall be in charge of men, stations and all of the equipment. They shall be responsible for station and equipment maintenance and appearance, training, in-service fire inspections and assigned records under the supervision of the on-duty assistant fire chief. In the absence of any of the chiefs, the duty captain shall assume command.

(Code 1973, § 7.04)

Sec. 17-22. - Assistance during fires.

Whenever it becomes necessary to have additional help in fighting a particular fire, the fire chief or, in his absence, the assistant fire chief may call upon any auxiliary firemen or any other person for aid. The person commanding the aid of such person shall report his service.

(Code 1973, § 7.06)

Sec. 17-23. - Boarding or tampering with fire department emergency equipment prohibited.

A person shall not, without proper authorization from the fire chief, cling to, attach himself to, climb upon or into, board or swing upon any fire department emergency vehicle, whether the same is in motion or at rest, or sound the siren, horn, bell or other sound-producing device thereon, or to manipulate or tamper with, or attempt to manipulate or tamper with any levers, valves, switches, starting devices, brakes, pumps, or any equipment or protective clothing on, or a part of, any fire department emergency vehicle.

(Code 1973, § 26A.9)

Sec. 17-24. - Restricting access to hydrants and connections prohibited.

- (a) It shall be unlawful to obscure from view, obstruct or restrict the access to any fire hydrant or any fire department connection for the pressurization of fire suppression systems, including fire hydrants and fire department connections that are located on public or private streets and access lanes, or on private property.
- (b) If, upon the expiration of the time mentioned in a notice of violation of this section, such obstructions or encroachments are not removed, the fire chief shall see to its removal. Cost incurred in the performance of necessary work shall be paid from the city treasury on certificate of the fire chief and with the approval of the city manager and the legal authority of the city shall institute appropriate action for the recovery of such costs.

(Code 1973, § 26A.12)

Sec. 17-25. - Hydrant use approval.

- (a) A person shall not use or operate any fire hydrant intended for use of the fire department for fire suppression purposes unless such person first secures a permit for such use from the fire chief and the water company having jurisdiction.
- (b) This section shall not apply to the use of such hydrants by a person employed by, and authorized to make such use by, the water company having jurisdiction.

(Code 1973, § 26A.13)

Sec. 17-26. - Public water supply.

The fire chief shall recommend to the city manager the location or relocation of new or existing fire hydrants and the placement of new or replacement of inadequate water mains located upon public property and deemed necessary to provide an adequate fire flow and distribution pattern. A fire hydrant

shall not be placed into or removed from service until approved by the fire chief.

(Code 1973, § 26A.14; Ord. No. 88-2261, § 1, 2-9-88)

Sec. 17-27. - Use of fire equipment outside city.

No fire equipment belonging to the City of Ferguson shall be taken outside the city limits except as authorized by ordinance and agreement for the interchange of services with fire departments of certain municipalities in St. Louis and St. Charles counties and certain fire districts in St. Louis County. Provided, however, in case of an emergency and upon the recommendation and advice of the fire chief, or in his absence that person acting in his behalf, the city manager, or in his absence that person acting in his behalf, may authorize the use of city fire equipment outside the City of Ferguson to areas other than those authorized by ordinance and agreement.

(Code 1973, § 7.07; Ord. No. 85-2115, § 1, 11-26-85; Ord. No. 88-2262, § 1, 2-9-88)

Sec. 17-28. - Requirements for fire hydrant installations and inspections.

- (a) No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered unless there is first submitted to the fire chief of the Ferguson Fire Department a plat as described in [subsection] 17.2 [of section 49-17.0] of Chapter 49 indicating thereon the nearest existing fire hydrant as well as proposed fire hydrants to be installed in compliance with subsection (b) of this section. It shall be the duty of the fire chief to enforce the provisions of this section and to approve the location of the placement of the fire hydrants and water mains in accordance with this section.
- (b) Minimum spacing and size requirements of fire hydrants: All fire hydrants and water mains hereinafter installed within the City of Ferguson shall meet the following minimum spacing and size requirements.

Zoned Districts	Minimum Distance of Fire Hydrant from Buildings	Minimum Main Size
1- and 2-family res.	500 feet	6 inch
Multifamily res.	400 feet	6 inch
Commercial	300 feet	8 inch
Industrial	200 feet	8 inch

The fire chief, upon review of the plat submitted under this section, shall take into consideration the proper placement of the fire hydrants and water mains as to whether or not their placement provides adequate safety in the distribution area of the fire hydrant and mains as well as an adequate fire flow and distribution pattern.

(Ord. No. 90-2452, § 1, 1-8-91)

Secs. 17-29—17-35. - Reserved.

DIVISION 2. - BUREAU OF FIRE PREVENTION^[3]

Footnotes:

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Cross reference— *Boards, commissions and committees, § 2-381 et seq.*

Sec. 17-36. - Created; supervising officer.

There is hereby created a bureau of fire prevention in the fire department, which shall be operated under the direction and supervision of the fire chief.

(Code 1973, § 26.05)

Sec. 17-37. - Fire marshal.

The chief executive officer of the bureau of fire prevention shall be appointed by the city manager and shall be known as fire marshal. He may also be removed from such office in the same manner as other officers and employees may be removed by the city manager.

(Code 1973, § 26.05.1)

Cross reference— Officers and employees generally, § 2-46.

Sec. 17-38. - Composition; purpose.

The fire chief may detail such fire fighters, officers, technical assistants, inspectors and other employees of the fire department as shall from time to time be necessary to administer the fire prevention code adopted in section 17-56.

(Code 1973, § 26.05.2)

Sec. 17-39. - Powers and duties.

The fire chief, the fire marshal and all properly assigned and appointed members of the fire prevention bureau, shall have all such powers and duties ascribed to the fire official, as set out in the fire prevention code adopted in section 17-56.

(Code 1973, § 26.05.3)

Sec. 17-40. - Reports.

A report shall be made by the chief of the fire prevention bureau to the city manager not less than annually. It shall contain all proceedings under this chapter, with such statistics as the fire chief may wish to include therein. The fire chief shall also recommend any amendments to the fire prevention code adopted in section 17-56 which in his judgment would be desirable for the city.

(Code 1973, § 26.05.4)

Secs. 17-41—17-55. - Reserved.

ARTICLE III. - FIRE PREVENTION CODE^[4]

Footnotes:

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Cross reference— *Buildings not in compliance with fire prevention code deemed "dangerous buildings," § 7-190(10).*

Sec. 17-56. - Adoption of 2006 International Fire Code.

The 2006 International Fire Code, as published by the International Code Council, is hereby adopted as the building code of the City for the control of buildings and structures within the city. Each and all of the regulations, provisions, penalties, conditions and terms of the code are hereby referred to, adopted, and made a part of this article as if fully set out in this article, with the additions, insertions, deletions and changes, if any, set forth in section 17-57 of this Code.

(Ord. No. 97-2934, § 1, 9-9-97; Ord. No. 2009-3400, § 1, 6-9-09)

Sec. 17-57. - Amendments.

The following sections of the 2006 International Fire Code, adopted in Section 17-56, are hereby amended, deleted, inserted, or added as indicated below:

Section 105 (Permits): In the following sections the wording Fire Code Official shall be amended to say Public Works Department of The City of Ferguson.

Sections: 105.1.1, 105.1.3, 105.2, 105.2.1, 105.2.4, 105.3.2, 105.3.3, 105.3.4, 105.3.6, 105.3.7, 105.4.1, 105.4.6, 105.6, 105.7

Section 105.4.1 (Submittals): In this section the wording one or more sets shall be amended to say five sets.

Section 108 (Board of Appeals): This section and all of its subsections should be repealed in their entirety and replaced with a new Section 108 to read as follows:

"Means of Appeal: Shall be governed by the same rules and by the same Board of Appeals as appointed under the provisions of the 2006 International Building Code."

Section 109.3 (Violation Penalties): This section should be amended to read as follows:

"Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire official, or of a permit or certificate used under provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding ninety (90) days or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense."

Section 111.4 (Failure to comply): This section should be amended to read as follows:

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00).

Section 506.1 (Where Required): This section should have the following statement added.

All buildings that have a fire alarm system or a fire sprinkler system must have an approved key box.

Section 508.5.1 (Where Required): This section should be repealed and replaced with a new Section 508.5.1 to read as follows:

Where Required: Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 500 feet in one (1) and two (2) family residential zone districts, 400 feet in multifamily residential zone districts, 300 feet in commercial zoned districts, or 200 feet in industrial zoned districts from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official. A fire hydrant must be installed within 50 feet of any fire department connection (FDC).

Section 903.2.1.1 (Group A-1): The square feet should be amended from 12,000 square feet to 10,000 square feet.

Section 903.2.1.3 (Group A-3): The square feet should be amended from 12,000 square feet to 10,000 square feet.

Section 903.2.1.4 (Group A-4): The square feet should be amended from 12,000 square feet to 10,000 square feet.

Section 903.2.2 (Group E): The square feet should be amended from 20,000 square feet to 10,000 square feet.

Section 903.2.3 (Group F-1): The square feet should be amended from 12,000 square feet to 10,000 square feet. Change the square feet of combined area from 24,000 square feet to 20,000 square feet.

Section 903.2.6 (Group M): The square feet should be amended from 12,000 square feet to 10,000 square feet. Change the square feet of combined area from 24,00 square feet to 20,000 square feet.

Section 903.2.8 (Group S-1): The square feet should be amended from 12,000 square feet to 10,000 square feet. Change the square feet of combined area from 24,000 square feet to 20,000 square feet.

Section 903.2.8.1 (Repair Garages) Item #2: The square feet should be amended from 12,000 square feet to 10,000 square feet.

New Section 903.2.10.4 (Buildings Over 10,000 Square Feet): This is a new section that should be added that states any Use Group, Occupancy Classification or Building over 10,000 square feet must have an automatic sprinkler system. Exceptions: Airport control towers, Open parking structures, and Occupancies in Group F-2.

Section 903.4.2 (Alarms): The following wording in bold print should be added to the following sentence in this section.

Alarm devices shall be provided on the exterior of the building in an approved location and in every tenant space inside the building if it does not have a fire alarm system.

New Section 914.3.6 (Exterior floor Identification Dots): This is a new section that should be added to read as follows.

All new and existing High-rise buildings shall be marked on their exterior with floor level identification dots. These dots shall be not less than eight (8) inches in diameter and be of illumination reflective material. Dots shall identify every fifth floor level of the building in relationship to the floor level

indicators on the elevator cars. Dots shall be visible on all faces or sides of the building. Specific dot locations must be approved by the fire department.

New Section 914.3.7 (Firefighter Assist Plan): This is a new section that should be added to read as follows.

An approved pictographic display (sign, drawing, or wall marking) shall be posted within all enclosed stairways at each floor landing in all new and existing high-rise buildings. Individual displays or signs shall show the floor level number where the graphic is displayed, the configuration of exit access corridors including all door openings, exit stairways, elevators, exterior building walls, fire alarm pull stations, fire hoses, and fire sprinkler valves. The sign shall be located five (5) feet (1524 mm) above the floor landing in a position that is readily visible when the doors are in the open or closed positions.

(Ord. No. 97-2934, § 1, 9-9-97; Ord. No. 2009-3400, § 2, 6-9-09)

Sec. 17-58. - Establishment of limits.

The limits referred to in the 2006 International Fire Code in which the storage of explosive materials is prohibited are hereby established as follows:

In all areas other than those zoned "M-1" Industrial by Chapter 49 of the Code of Ordinances of the City of Ferguson.

(Ord. No. 97-2934, § 1, 9-9-97; Ord. No. 2009-3400, § 3, 6-9-09)

Sec. 17-59. - Saving clause.

Nothing in this article or in the fire prevention code hereby adopted shall be construed to affect any lawsuit or proceeding impending in any court or any rights acquired, or liability incurred, or any cause(s) of action acquired or existing, under any act or ordinance hereby repealed by this article, nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this article.

(Ord. No. 97-2934, § 1, 9-9-97)

Chapter 18 - FLOODPLAIN MANAGEMENT^[1]

Footnotes:

— (1) —

Editor's note—Ord. No. 2015-3571, § 1, adopted Jan. 27, 2015, amended Ch. 18 in its entirety to read as herein set out. Former Ch. 18, §§ 18-1—18-35, pertained to Floodplain Management, and derived from Ord. No. 87-2208, § 1, adopted May 26, 1987; Ord. No. 95-2779, § 1, adopted June 27, 1995.

Cross reference— Buildings and building regulations, Ch. 7; civil disasters and emergency, Ch. 10; mobile homes and trailers, Ch. 27; redevelopment procedures, Ch. 34; streets, sidewalks and other public places, Ch. 40; subdivisions regulations generally, Ch. 41; drainage systems for subdivisions, § 41-104; utilities generally, Ch. 45; sewers, § 45-11 et seq.; zoning, Ch. 49.

ARTICLE I. - IN GENERAL

Sec. 18-1. - Findings of fact.

- (a) The special flood hazard areas of the city are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.
- (b) These flood losses are caused by (1) the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.
- (c) The flood insurance study (FIS) uses a standard engineering method of analyzing flood hazards which consist of a series of interrelated steps.
 - (1) Selection of a base flood that is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for these regulations is representative of large floods which are characteristic of what can be expected to occur on the particular streams subject to this chapter. It is in the general order of a flood which could be expected to have a one (1) percent chance of occurrence in any one (1) year as delineated on the federal insurance administrator's FIS, and illustrative materials for St. Louis County dated February 4, 2015 as amended, and any future revisions thereto.
 - (2) Calculation of water surface profiles are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
 - (3) Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.
 - (4) Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height.
 - (5) Delineation of flood fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

(Ord. No. 2015-3571, § 1, 1-27-15)

Sec. 18-2. - Statement of purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare; to minimize public and private losses due to flood conditions; to maintain the city's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) by applying the provisions of this chapter to:

- (1) Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
- (2) Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
- (3) Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

(Ord. No. 2015-3571, § 1, 1-27-15)

Sec. 18-3. - General provisions.

- (a) *Lands to which this chapter applies.* This chapter shall apply to all lands within the jurisdiction of the city identified as numbered or unnumbered A zones and AE zones, on the Flood insurance rate maps (FIRMSs) for St. Louis County on map panels, 29189C0064K, 29189C0068K, 29189C0069K, 29189C0202K, 29189C0206K, and 29189C0207K dated February 4, 2015 as amended, and any future revisions thereto. In all areas covered by this chapter, no development shall be permitted except through the issuance of a floodplain development permit, granted by the city council or the director of public works acting in his capacity as the designated floodplain administrator under such safeguards and restrictions as the city council or the director of public works acting in his capacity as the designated floodplain administrator may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically required by section 18-20 et seq. of this chapter.
- (b) *Basis for establishing the areas of special flood hazard.* The areas of special flood hazard identified by the Federal Emergency Management Agency through its scientific and engineering reports and studies with accompanying flood insurance rate maps (and flood boundary and floodway maps) with any revisions thereto are hereby adopted by reference and declared to be a part of this chapter.
- (c) *Compliance.* No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations.
- (d) *Abrogation and greater restrictions.* It is not intended by this chapter to repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. Where the provisions of this chapter conflict with other regulations, the more restrictive provision shall prevail.
- (e) *Interpretation.* In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, shall be liberally construed in favor of the city, and shall not be deemed a limitation or repeal of any other powers granted to the city by law.
- (f) *Warning and disclaimer of liability.* The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter and any policy adopted by the city do not imply that areas outside the floodway and flood fringe or land uses permitted within such areas will be free from flooding or flood damage. This chapter and the policies adopted by the city shall not create a liability on the part of the city, any officer or employee thereof, for any flood damages that may result from reliance on this chapter or any policy or administrative decision lawfully made thereunder.
- (g) *Authorization.* The city is authorized to enact floodplain management regulations designed to protect the health, safety and welfare of its citizens pursuant to article II, section 2.1 of the Ferguson City Charter and state law including section 89.020 R.S.Mo.
- (h) *Severability.* If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this chapter shall not be affected thereby. *See, section 1-14* of this Code.
- (i) *Violations.* Any failure of a structure or other development to be fully compliant with the regulations set forth in this chapter shall be deemed to be a violation of this chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance

required by this ordinance is presumed to be in violation until such time as that documentation is provided. Any failure by any person to obtain the appropriate permits or comply with all regulations set forth in this chapter shall be deemed to be in violation of this chapter.

Each and every day that a violation continues shall be deemed to be a separate offense.

Violations are subject to punishment as set forth in section 1-15 of this code and subject to further action (including abatement of public nuisances) as authorized by law.

(Ord. No. 2015-3571, § 1, 1-27-15)

Sec. 18-4. - Definitions

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning they have in common usage and to give these provisions the most reasonable application.

100-year Flood. See *base flood*.

Accessory structure means the same as *appurtenant structure*.

Actuarial rates. See *risk premium rates*.

Administrator means the federal insurance administrator.

Agency means the Federal Emergency Management Agency (FEMA).

Agricultural commodities means agricultural products and livestock.

Agricultural structure means any structure used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities.

Appeal means a request for review of the floodplain administrator's interpretation of any provision of this chapter or a request for a variance.

Appurtenant structure means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

Area of special flood hazard is the land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year.

Base flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

Basement means any area of the structure having its floor subgrade (below ground level) on all sides.

Building. See *structure*.

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Elevated building means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Existing construction means for the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as *existing structures*.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland and/or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

Flood boundary and floodway map (FBFM) means an official map of a community on which the administrator has delineated both special flood hazard areas and the designated regulatory floodway.

Flood elevation determination means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one (1) percent or greater chance of occurrence in any given year.

Flood elevation study means an examination, evaluation and determination of flood hazards.

Flood fringe means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

Flood insurance rate map (FIRM) means an official map of a community, on which the administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood insurance study (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see "flooding").

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

Floodway or regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Floodway encroachment lines means the lines marking the limits of floodways on federal, state and local floodplain maps.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

Functionally dependent use means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (i) By an approved state program as determined by the Secretary of the Interior; or
 - (ii) Directly by the Secretary of the Interior in states without approved programs.

Lowest floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this chapter

Manufactured home means a structure, transportable in one (1) or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term manufactured home does not include a *recreational vehicle*.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Map means the flood hazard boundary map (FHBM), flood insurance rate map (FIRM), or the flood boundary and floodway map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

Market value or fair market value means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

Mean sea level means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

New construction means, for the purposes of determining insurance rates, structures for which the *start of construction* commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

NFIP means the National Flood Insurance Program (NFIP).

Primarily above ground means that at least fifty-one (51) percent of the actual cash value of the structure, less land value, is above ground.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Repetitive loss means flood-related damages sustained by a structure on two (2) separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, equals or exceeds twenty-five (25) percent of the market value of the structure before the damage occurred.

Risk premium rates means those rates established by the administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. Risk premium rates include provisions for operating costs and allowances.

Special flood hazard area. See *area of special flood hazard*.

Special hazard area means an area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A and AE.

Start of construction includes substantial-improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within one hundred eighty (180) days of the permit date. The *actual start* means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial-improvement, the *actual start of construction* means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

State coordinating agency means that agency of the state government, or other office designated by the governor of the state or by state statute at the request of the administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. The term includes repetitive loss buildings (see definition).

For the purposes of this definition, "repair" is considered to occur when the first repair or reconstruction of any wall, ceiling, floor, or other structural part of the building commences.

The term does not apply to:

(1)

Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the code enforcement official and which are solely necessary to assure safe living conditions; or

- (2) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure;" or
- (3) Any improvement to a building.

Substantial improvement means any combination of reconstruction, alteration, or improvement to a building, taking place during a ten (10) year period, in which the cumulative percentage of improvement equals or exceeds fifty (50) percent of the current market value of the building. For the purposes of this definition, an improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. This term includes structures, which have incurred "repetitive loss" or "substantial damage", regardless of the actual repair work done.

The term does not apply to:

- (1) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the code enforcement official and which are solely necessary to assure safe living conditions; or
- (2) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure;" or
- (3) Any building that has been damaged from any source or is categorized as repetitive loss.

Substantially improved existing manufactured home parks or subdivisions is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty (50) percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance means a grant of relief by the board of adjustment from the terms of a floodplain management regulation; provided, however, that flood insurance requirements remain in place for any varied use or structure and cannot be varied.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

(Ord. No. 2015-3571, § 1, 1-27-15)

Secs. 18-5—18-19. - Reserved.

ARTICLE II. - ADMINISTRATION

DIVISION 1. - GENERALLY

Sec. 18-20. - Establishment of development permit.

A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas covered by this chapter and specifically described in section 18-3(a) of this chapter. No person, firm, corporation, or unit of

government shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

(Ord. No. 2015-3571, § 1, 1-27-15)

Sec. 18-21. - Designation of the local floodplain administrator.

The public works director is hereby designated as the floodplain administrator under this chapter.

(Ord. No. 87-2208, § 1, 5-26-87; Ord. No. 2015-3571, § 1, 1-27-15)

Sec. 18-22. - Duties and responsibilities of the director of public works in his capacity as the designated floodplain administrator.

Duties of the director of public works in his capacity as the designated floodplain administrator shall include, but not be limited to:

- (1) Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this chapter have been satisfied;
- (2) Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from federal, state, or local governmental agencies from which prior approval is required by federal, state, or local law;
- (3) Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
- (4) Issue floodplain development permits for all approved applications;
- (5) Notify adjacent communities and the Missouri State Emergency Management Agency (Mo SEMA) prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
- (6) Assure that the flood carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse;
- (7) Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;
- (8) Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed;
- (9) When floodproofing techniques are utilized for a particular non-residential structure, the floodplain administrator shall require certification from a registered professional engineer or architect.

(Ord. No. 2015-3571, § 1, 1-27-15)

Sec. 18-23. - Application for floodplain development permit.

Application for a development permit shall be made on forms furnished by the department of public works. Every floodplain development permit application shall, at a minimum:

- (1)

Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;

- (2) Identify and describe the work to be covered by the floodplain development permit;
- (3) Indicate the use or occupancy for which the proposed work is intended;
- (4) Indicate the assessed value of the structure and the fair market value of the improvement;
- (5) Specify whether development is located in designated flood fringe or floodway;
- (6) Identify the existing base flood elevation and the elevation of the proposed development;
- (7) Give such other information as reasonably may be required by the public works director; and
- (8) Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

The application shall be accompanied by plans and specifications drawn to scale showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, at a minimum, the following information shall be provided:

- (1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.
- (2) Elevation in relation to mean sea level to which any nonresidential structure is to be floodproofed.
- (3) Certification from a registered, professional engineer or architect that the floodproofed nonresidential structure shall meet the floodproofing criteria set forth in this chapter.
- (4) Description of the extent to which any watercourse will be altered or related as result of proposed development.

(Ord. No. 2015-3571, § 1, 1-27-15)

DIVISION 2. - APPEALS AND VARIANCES

Sec. 18-24. - Variance procedures.

- (a) The building board of appeals as established by the city shall hear and decide appeals and requests for variances from the floodplain management requirements of this chapter.
- (b) Where an application for a floodplain development permit or request for a variance from the floodplain management regulations is denied by the public works director, the applicant may apply for such floodplain development permit or variance directly to the board of building appeals.

The board of building appeals shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the public works director in the enforcement or administration of this chapter.

- (c) Any person aggrieved by the decision of the building board of appeals or any taxpayer may appeal such decision to the Circuit Court of St. Louis County in the same manner that appeals from decisions of boards of adjustment are taken as provided in section 89.110 R.S.Mo.
- (d) In passing upon such applications for variances, the building board of appeals shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this chapter, and the following criteria:

- (1) The danger to life and property due to flood damage;
 - (2) The danger that materials may be swept onto other lands to the injury of others;
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (4) The importance of the services provided by the proposed facility to the community;
 - (5) The necessity to the facility of a waterfront location, where applicable;
 - (6) The availability of alternative locations, not subject to flood damage, for the proposed use;
 - (7) The compatibility of the proposed use with existing and anticipated development;
 - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (10) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and
 - (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.
- (e) Conditions for approving variances:
- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 2 through 6 below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
 - (2) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination provided the proposed activity will not preclude the structure's continued historic designation.
 - (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (5) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (6) The administrator shall notify the applicant in writing that:
 - (i) The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage; and
 - (ii)

Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this chapter.

- (f) Conditions for approving variances for accessory structures. Any variance granted for an accessory structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in subparagraphs (d) and (e) of this section.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-floodproofed.

- (1) Use of the accessory structures must be solely for parking and limited storage purposes in flood-prone areas only.
- (2) For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below highest adjacent grade, must be built with flood-resistant materials in accordance with this chapter.
- (3) The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with this chapter. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
- (4) Any mechanical, electrical, or other utility equipment must be located above highest adjacent grade or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions.
- (5) The accessory structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with the NFIP regulations.
- (6) Equipment, machinery, or other contents must be protected from any flood damage.
- (7) No disaster relief assistance under any program administered by any federal agency shall be paid for any repair or restoration costs of the accessory structures.
- (8) The floodplain administrator shall notify the applicant in writing that:
 - (i) The issuance of a variance to construct a structure below highest adjacent grade will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage; and
 - (ii) Such construction below highest adjacent grade increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this chapter.
- (9) Wet-floodproofing construction techniques must be reviewed and approved by administrator and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

(Ord. No. 2015-3571, § 1, 1-27-15)

Secs. 18-25—18-29. - Reserved.

ARTICLE III - PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 18-30. - General standards.

- (a) No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any numbered or unnumbered A zones and AE zones, unless the conditions of this chapter are satisfied.
- (b) All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this chapter. If flood insurance study data is not available, the director of public works shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from federal, state, or other sources.
- (c) Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any numbered A zone or AE zone on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.
- (d) All new construction, subdivision proposals, substantial improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:
 - (1) Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - (2) Construction with materials resistant to flood damage;
 - (3) Utilization of methods and practices that minimize flood damages;
 - (4) All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - (5) New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and
 - (6) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
 - (i) All such proposals are consistent with the need to minimize flood damage;
 - (ii) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
 - (iii) Adequate drainage is provided so as to reduce exposure to flood hazards; and
 - (iv) All proposals for development, including proposals for manufactured home parks and subdivisions, of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.
- (e) *Storage, material, and equipment.*
 - (1) The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
 - (2)

Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

- (f) *Nonconforming use.* A structure, or the use of a structure or premises that was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:
- (1) If such structure, use, or utility service is discontinued for twenty-four (24) consecutive months, any future use of the building shall conform to this chapter.
 - (2) If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.
- (g) *Accessory structures.* Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than four hundred (400) square feet, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; a variance has been granted from the standard floodplain management requirements of this chapter; and a floodplain development permit has been issued.

(Ord. No. 2015-3571, § 1, 1-27-15)

Sec. 18-31. - Specific standards.

- (a) In all areas identified as numbered and unnumbered A zones and AE zones, where base flood elevation data have been provided, the following provisions are required:
- (1) *Residential construction.* New construction or substantial improvement of any residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to one (1) foot above base flood elevation.
 - (2) *Nonresidential construction.* New construction or substantial-improvement of any commercial, industrial, or other nonresidential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator.
 - (3) *Requirement for all new construction and substantial improvements.* For all new construction and substantial improvements, fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and

- (ii) The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(b) *Manufactured homes.*

- (1) All manufactured homes to be placed within all unnumbered and numbered A zones and AE zones shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- (2) All manufactured homes that are placed or substantially improved within unnumbered or numbered A zones and AE zones, on sites:
 - (i) Outside of manufactured home park or subdivision;
 - (ii) In a new manufactured home park or subdivision;
 - (iii) In an expansion to and existing manufactured home park or subdivision; or
 - (iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial-damage as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one (1) foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- (3) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones and AE zones shall be elevated so that either:
 - (i) The lowest floor of the manufactured home is at one (1) foot above the base flood level; or
 - (ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(c) *Recreational vehicles.*

- (1) All recreational vehicles placed on sites within all unnumbered and numbered A zones and AE zones shall either:
 - (i) Be on the site for fewer than 180 consecutive days and be fully licensed by the State of Missouri, fully functional and ready for highway use; or
 - (ii) Meet the permitting, elevation, and the anchoring requirements for manufactured homes of this chapter.
- (2) For purposes of this section, a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

(Ord. No. 2015-3571, § 1, 1-27-15)

Cross reference— Subdivision regulations, Ch. 41.

Sec. 18-32. - Floodway.

The floodway is an extremely hazardous area due to the velocity of flood waters that carry debris and potential projectiles and, therefore, the following provisions shall apply:

- (a) The director of public works in his capacity as the designated floodplain administrator shall adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.
- (b) The following are hereby prohibited: any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (c) If it is demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed development would not result in any increase in flood levels within the community during the occurrence of the base flood discharge, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provisions of this chapter.

(Ord. No. 2015-3571, § 1, 1-27-15)

Chapter 19 - HEALTH^[1]

Footnotes:

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Cross reference— *Massage salons, bath houses and health salons, Ch. 26; notice of communicable diseases in mobile home parks and trailer parks, § 27-32; nuisances, Ch. 28; littering, § 29-65; parks and recreation, Ch. 30; solid waste, Ch. 37; health regulations pertaining to septic tanks, § 45-12; weeds, § 46-26 et seq.*

State Law reference— *Public health, RSMo 71.680 et seq.; aid to local government health facilities, RSMo Ch. 189; health and welfare, RSMo Ch. 191; department of health, RSMo Ch. 192.*

ARTICLE I. - IN GENERAL

Sec. 19-1. - Right of entry.

The city, by and through its authorized agents or employees, shall have the authority to lawfully enter upon any premises or enter any dwelling, structure or building within the city limits, for the purpose of inspecting same to determine the existence of any violations of this chapter.

(Code 1973, § 12.16)

Secs. 19-2—19-15. - Reserved.

ARTICLE II. - HEALTH-CARE FACILITIES^[2]

Footnotes:

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State Law reference— *Municipal authority to establish and regulate hospitals, RSMo 82.240; convalescent, nursing and boarding homes, RSMo Ch. 198.*

Sec. 19-16. - Permit required.

No person shall maintain, manage, operate or conduct any hospital, surgical outpatient facility, sanitarium, nursing home or other health-care facility or institution for the boarding, nursing or care of the sick without a permit therefor from the council.

(Code 1973, §§ 12.08(a), 12.09)

Sec. 19-17. - Application for permit.

An application for a permit under this article shall be made in writing to the city clerk in such form and upon such blanks as shall be provided, and such application shall state:

- (1) The names of all persons who will be engaged in the operation, management and direction of the place for which the permit, if sought, and if a corporation, the names of the directors and officers thereof;
- (2) The address of the premises to be used;
- (3) The number and names of any and all persons who will live or work regularly upon such premises;
- (4) Any other information that may be required by the city manager.

(Code 1973, § 12.08(b))

Sec. 19-18. - Investigation.

No application for a permit under this article shall be approved until an investigation has been made of all the facts alleged by the applicant, and from such investigation it shall have been determined by the city manager that:

- (1) The applicant is a responsible person of good moral character;
- (2) The premises to be used are in a fit and sanitary condition and properly equipped to provide good and adequate care;
- (3) The persons to be in active charge of such hospital, home, boarding home or institution are properly qualified to carry on efficiently the duties required of them;
- (4) The premises are in a district where such use is permitted by the zoning regulations of the city;
- (5) All regulations of the state division of health have been complied with.

(Code 1973, § 12.08(c))

Sec. 19-19. - Issuance of permit; fee; contents.

- (a) *Issuance.* Permits under this article shall be issued by the council when the application for such permit shall have been approved by the city manager. The permit shall be effective for a period of twelve (12) months from the date of issuance.
- (b) *Fee.* The fee for a permit issued under this section is five dollars (\$5.00).
- (c) *Contents.* The permit shall specify the name of the person to whom it is issued, the premises, the number of individuals for which provision has been made, and such other information as the city manager shall specify.

(Code 1973, § 12.08(d)—(f))

Sec. 19-20. - Inspection of premises

The premises specified in any permit issued to any person under this article shall be subject to visitation and inspection by the city manager, by the deputies appointed by the city manager and by medical inspectors authorized by the city. Any such person shall have access to every part of any building or premises occupied or used under such permit.

(Code 1973, § 12.08(g))

Sec. 19-21. - Obedience to regulations.

Each permittee under this article shall obey all rules or regulations approved by the council which may be made from time to time for the conduct and management of such permittee.

(Code 1973, § 12.08(h))

Secs. 19-22—19-30. - Reserved.

ARTICLE III. - RESERVED^[3]

Footnotes:

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Editor's note—Ord. No. 2008-3372, § 1, adopted Sept. 30, 2008, repealed art. III, §§ 19-31—19-35, which pertained to nurseries and kindergartens and derived from §§ 12.10(a)—(f) of the 1973 Code; Ord. No. 2001-3106, § 1, adopted March 27, 2001; Ord. No. 2001-3111, § 1, adopted March 27, 2001; and Ord. No. 2001-3121, § 1, adopted June 26, 2001.

Secs. 19-31—19-35. - Reserved.

Chapter 21 - HUMAN RIGHTS^[1]

Footnotes:

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Cross reference— Discrimination by cable television franchisees, § 9-91; court, Ch. 13.

State Law reference— Human rights, RSMo Ch. 213; discriminatory employment practices, RSMo 213.055; discriminatory practices, RSMo Ch. 314; discrimination by a public servant against employees or applicants, RSMo 576.040(1).

ARTICLE I. - IN GENERAL^[2]

Footnotes:

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Editor's note—Ord. No. 2012-3497, § 1, adopted Aug. 28, 2012, amended Art. I in its entirety, in effect repealing and reenacting said article to read as herein set out. The former Art. I, §§ 21-1—21-3, pertained to human rights generally and derived from § 51.32 of the 1973 Code; and Ord. No. 94-2715, § 1, adopted June 28, 1994.

Sec. 21-1. - Purposes of chapter.

The purposes of this chapter are:

- (1) To secure for all individuals within the city freedom from any discriminatory practice made unlawful by this chapter.
- (2) To implement within the city the policies embodied in Missouri and federal human right legislation and to promote cooperation between the city and the state and federal agencies enforcing that legislation.

To provide a city commission on human rights, referred to as the human rights commission, which is dedicated to the elimination of discriminatory practices made unlawful by this chapter.

(Ord. No. 2012-3497, § 1, 8-28-12)

Sec. 21-2. - Definitions.

For purposes of this chapter, the following terms shall be deemed to have the meanings indicated below:

Commission. The Ferguson Human Rights Commission.

Complainant. A person who has filed a complaint with the commission alleging that another person has engaged in a prohibited discriminatory practice.

Discrimination. Any unfair treatment based on race, color, religion, national origin, ancestry, sex, gender identity, sexual orientation, disability, age as it relates to employment, or familial status as it relates to housing.

Dwelling. Any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

Familial status. One (1) or more individuals who have not attained the age of eighteen (18) years being domiciled with: (a) a parent or another person having legal custody of such individual; or (b) the designee of such parent or other person having such custody, with the written permission of such parent or other person. The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

Gender identity. The gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth.

Person. Includes one (1) or more individuals, corporations, partnerships, associations, organizations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, trustees, trustees in bankruptcy, receivers, fiduciaries or other organized groups of persons.

Places of public accommodation. All places or businesses offering or holding out to the general public goods, services, privileges, facilities, advantages or accommodations for the peace, comfort, health, welfare and safety of the general public or such public places providing food, shelter, recreation and amusement including, but not limited to:

- (1) Any inn, hotel, motel or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five (5) rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his/her residence;
- (2) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain or other facility principally engaged in selling food and drink for consumption on the premises including, but not limited to, any such facility located on the premises of any retail establishment;

Any gasoline station, including all facilities located on the premises of such gasoline station and made available to the patrons thereof;

- (4) Any motion picture house, theater, concert hall, sports arena, stadium or other place of exhibition or entertainment;
- (5) Any public facility owned, operated or managed by or on behalf of this state or any agency or subdivision thereof, or any public corporation; and any such facility supported in whole or in part by public funds; or
- (6) Any establishment which is physically located within the premises of any establishment otherwise covered by this section or within the premises of which is physically located any such covered establishment, and which holds itself out as serving patrons of such covered establishment.

Rent. Includes to lease, to sublease, to let and otherwise to grant for consideration the right to occupy premises not owned by the occupant.

Respondent. A person who is alleged to have engaged in a prohibited discriminatory practice in a complaint filed with the commission.

Sexual orientation. An individual's real or perceived heterosexuality, homosexuality or bisexuality.

Unlawful discriminatory practice. Any act that is unlawful under this chapter.

(Ord. No. 2012-3497, § 1, 8-28-12)

Sec. 21-3. - Discriminatory practices in places of public accommodation.

- (a) *Statement of policy.* It is hereby declared to be the policy of the city in the exercise of its licensing and police powers for the preservation of the peace and the protection of the comfort, health, welfare and safety of the city and the inhabitants thereof, to prohibit discriminatory practices in places of public accommodation.
- (b) *Practices prohibited.* The following discriminatory practices in places of public accommodation are hereby prohibited and declared unlawful:
 - (1) To directly or indirectly deny, refuse or withhold from any person within the city on account of race, color, religion, national origin, ancestry, sex, gender identity, sexual orientation or disability full and equal accommodation advantages, facilities and privileges in all places of public accommodation, except for reasons applicable to all citizens;
 - (2) For the owner, lessee, manager, proprietor, concessionaire, custodian, agent or employee of a place of public accommodation within the city, except for reasons applicable to all citizens, to treat differently any person in the sale of a commodity, in the use of a facility, or in the enjoyment of a privilege, by reason of race, color, religion, national origin, ancestry, sex, gender identity, sexual orientation or disability or to segregate or require the placing of any person in any separate section or area of the premises, or facilities, by reason of race, color, religion, national origin, ancestry, sex, gender identity, sexual orientation or disability;
 - (3) To place, post, maintain, display, or circulate or knowingly cause, permit or allow the placing, posting, maintenance, display or circulation of any written or printed advertisement, notice or sign of any kind or description to the effect that any of the accommodations, advantages, facilities or privileges of any place of public accommodation shall be refused, withheld from or denied any person by reason of race, color, religion, national origin, ancestry, sex, gender identity, sexual

orientation or disability, or that the patronage of any person is unwelcome, objectionable, or not acceptable, desired or solicited by reason of race, color, religion, national origin, ancestry, sex, gender identity, sexual orientation or disability, or that any person is required or requested to use any separate section or area of the premises or facilities by reason of race, color, religion, national origin, ancestry, sex, gender identity, sexual orientation or disability, except for reasons applicable to all citizens.

(Ord. No. 2012-3497, § 1, 8-28-12)

Sec. 21-4. - Discrimination by contractors with the city.

Every supplier of materials and services and all contractors doing business with the city in excess of one thousand dollars (\$1,000.00) per year shall be an "equal opportunity employer" as defined by federal law and shall not engage in any practice or have any policy resulting in the discrimination on the basis of race, color, religion, national origin, ancestry, sex, gender identity, sexual orientation or disability.

(Ord. No. 2012-3497, § 1, 8-28-12)

Sec. 21-5. - Unlawful housing practices.

It shall be an unlawful housing practice:

- (1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, national origin, ancestry, sex, gender identity, sexual orientation, familial status or disability. If other bona fide offers to rent or buy have been made, the owner, lessor or his agent may accept such offers without violating the provisions of this article;
- (2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, national origin, ancestry, sex, gender identity, sexual orientation, familial status or discrimination;
- (3) To make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination, based on race, color, religion, national origin, ancestry, sex, gender identity, sexual orientation, familial status or disability, or an intention to make any such preference, limitation, or discrimination;
- (4) To represent to any person because of race, color, religion, national origin, ancestry, sex, gender identity, sexual orientation, familial status or disability that any dwelling is not available for inspection, sale or rental, when such dwelling is, in fact, so available;
- (5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, ancestry, sex, gender identity, sexual orientation, familial status or disability.

(Ord. No. 2012-3497, § 1, 8-28-12)

Sec. 21-6. - Discrimination in the financing of housing.

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise, whose business consist in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for

the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance, because of race, color, religion, national origin, ancestry, sex, gender identity, sexual orientation or disability of such person or of any person associated with him in connection with such loan or other financial assistance or of the present or prospective owners, lessees, tenants or occupants of the dwellings or dwellings in relation to which such loan or other financial assistance is to be made or given.

(Ord. No. 2012-3497, § 1, 8-28-12)

Sec. 21-7. - Discrimination in brokerage services.

It shall be unlawful for any person to deny any person access to or membership or participation in any multiple-listing service, real estate broker's organization or other service organization or facility relating to the business of selling or renting dwellings, or to discriminate against any person in the terms or conditions of such access, membership or participation, on account of race, color, religion, national origin, ancestry, sex, gender identity, sexual orientation, familial status or disability.

(Ord. No. 2012-3497, § 1, 8-28-12)

Sec. 21-8. - Additional unlawful discriminatory practices.

It shall be an unlawful discriminatory practice:

- (1) To aid, abet, incite, compel or coerce the commission of acts prohibited under this chapter or attempt to do so;
- (2) To retaliate or discriminate in any manner against any other person because such person has opposed any practice prohibited by this chapter or because such person has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or hearing conducted pursuant to this chapter;
- (3) For the city to discriminate on the basis of race, color, religion, national origin, ancestry, sex, gender identity, sexual orientation, disability, age as it relates to employment, or familial status as it relates to housing; or
- (4) To discriminate in any manner against any other person because of such person's association with any person protected by this chapter.

(Ord. No. 2012-3497, § 1, 8-28-12)

Sec. 21-9. - Exemptions.

(a) Nothing in this chapter:

- (1) Requires that a dwelling or public accommodation be made available to an individual whose presence would constitute a direct threat to the health or safety of other individuals or whose premise [presence] would result in substantial physical damage to the property others.
- (2) Limits the applicability of any local restriction regarding the maximum number of occupants permitted to occupy a dwelling or building.
- (3) Shall prohibit conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance, as defined by RSMo § 195.010.

(b) Nothing in this chapter, other than the prohibition against discriminatory advertising, shall apply to:

- (1) Any single-family house sold or rented by a private individual owner, provided:
 - a. The private individual owner does not own an interest in more than three (3) such single-family houses at any one (1) time; and
 - b. The house is sold or rented without the use of a real estate broker, agent or salesperson or the facilities of any person, including the owner, in the business of selling or renting dwellings and without publication, posting or mailing of any advertisement. If the owner does not reside in the house at the time of the sale or was not the most recent resident of the house prior to such sale, the exemption in this section applies to only one (1) such sale in any twenty-four-month period.
- (2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one (1) of such living quarters as his residence.
- (c) Nothing in this article shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin, ancestry, sex, familial status, or disability.
- (d) Nothing in this article shall prohibit a private club, not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(Ord. No. 2012-3497, § 1, 8-28-12)

Secs. 21-10—21-30. - Reserved.

ARTICLE II. - HUMAN RIGHTS COMMISSION^[3]

Footnotes:

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Editor's note—Ord. No. 2012-3497, § 1, adopted Aug. 28, 2012, amended Art. II in its entirety, in effect repealing and reenacting said article to read as herein set out. The former Art. II, §§ 21-16—21-21 and 21-31—21-33, pertained to the fair housing code and derived from §§ 52.02—52.09 of the 1973 Code; Ord. No. 96-2810, § 1, adopted Jan. 9, 1996; and Ord. No. 97-2957, § 1, adopted Nov. 10, 1997.

Sec. 21-31. - Creation and special meetings.

There is hereby created a human rights commission which shall consist of seven (7) members, who shall be appointed by the mayor of the city, with the approval of the council. Such commission shall meet as set forth herein, upon receipt of a complaint or upon call of the mayor or a majority of the members thereof.

(Ord. No. 2012-3497, § 1, 8-28-12)

Sec. 21-32. - Duties.

The authority and responsibility for administering this chapter shall be in the human rights commission. The commission shall administer this code in a manner affirmatively to further the policies thereof and to prevent or eliminate discriminatory practices prohibited herein. The commission shall

cooperate with and render technical assistance through federal, state or other public or private agencies, organizations and institutions which are formulating or carrying out programs to prevent or eliminate such discriminatory practices. The commission shall make recommendations to the city council with regard to actions, policies or legislation in furtherance of the policy to prevent or eliminate discriminatory practices prohibited herein. The commission shall have the following functions, powers and duties:

- (1) To receive and investigate complaints alleging any discriminatory practices made unlawful by article I of this chapter.
- (2) To provide third party mediation services to resolve incidences of alleged discriminatory practices made unlawful by article I of this chapter.
- (3) To cooperate with other organizations, private and public, to discourage discrimination.
- (4) To encourage fair treatment for all persons regardless of age as it relates to employment, race, color, religion, sex, national origin, ancestry, marital status, handicap, sexual orientation, gender identity or familial status as it relates to housing.
- (5) To advise the city council on human rights issues.
- (6) To sponsor or initiate specifically targeted workshops and on-going programs to improve human relations and to decrease tensions in the city.
- (7) To adopt rules, regulations and guidelines pertaining to the investigation and disposition of complaints consistent with the provisions of this chapter.
- (8) To make recommendations to the city manager for funding human rights enhancement activities.

(Ord. No. 2012-3497, § 1, 8-28-12)

Sec. 21-33. - Procedure for investigation and enforcement.

- (a) Any person who claims to have been injured by a discriminatory practice or who believes that he will be irrevocably injured by a discriminatory practice that is about to occur, hereafter called the person aggrieved, may file a verified complaint with the human rights commission. The complaint shall be filed within ninety (90) days after the alleged discriminatory practice occurred. Complaints shall be in writing and shall contain such information and be in such form as the commission requires. Upon receipt of such a complaint, a copy shall be furnished to the person or persons who allegedly committed or are about to commit the alleged discriminatory practice. A respondent may file a verified answer to the complaint against him and with leave of the commission, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time.
- (b) Before investigating a complaint, the commission shall determine if the complainant and respondent are willing to resolve the issues raised in the complaint through mediation or some other method of dispute resolution at their own cost. If the complainant and respondent are willing, the commission shall postpone its investigation to allow time for mediation through a third party. The complainant and respondent may engage in dispute resolution at any stage in the process. The resolution shall be reported back to the commission in a timely manner. If the complainant and respondent resolve the dispute prior to investigation, the case shall be closed.
- (c) If the complainant and respondent are unwilling to attempt dispute resolution or are unsuccessful in such an attempt, the commission shall promptly investigate the allegations of the complaint.
- (d) The commission shall investigate such complaint within a reasonable time and shall determine if cause exists for the allegation made in the complaint. The commission shall utilize the following procedure with regard to each complaint:

- (1) The commission shall conduct a preliminary review of the complaint and the answer and any supporting documentation submitted by either party.
 - (2) If the documentation, on its face, shows that the complaint is not frivolous or outside the scope of authority of the commission, the commission shall pursue a more thorough investigation.
 - (3) In order to complete a thorough investigation, the commission may request, through a formal request made to the city manager, the assistance of the city police department, the city attorney and other city staff members for purposes of its investigation into a filed complaint. The commission shall not contact such departments or officials except through the city manager.
 - (4) Upon receipt of a formal request from the commission, the city manager shall contact the police chief who shall assign a law enforcement officer to investigate the complaint. The law enforcement officer shall conduct interviews with the parties and witnesses as he or she feels necessary in his or her sole discretion. The city manager shall contact other city employees or the city attorney if services by others are warranted.
 - (5) The law enforcement officer completing the investigation shall prepare a report which shall be forwarded to the commission. The law enforcement officer may also prepare conclusions and recommendations for review by the commission. If any party or witness refuses to cooperate in the investigation, the officer shall note that fact in the report to the commission.
- (e) After the investigation, the human rights commission will report on the matter to the city council and may, in the discretion of the commission, report the matter to appropriate state or federal agencies. Upon the receipt of the report, the city council may instruct the taking of certain actions and may forward the report to the city attorney for appropriate action in municipal court. Nothing herein shall be construed to limit the authority or legal remedies available to the city.
- (f) The commission's investigatory authority set forth in this section shall be limited to complaints filed with the commission only. The commission shall not have investigatory authority outside of complaints filed with the commission.

(Ord. No. 2012-3497, § 1, 8-28-12)

ARTICLE III. - HANDICAPPED PERSONS^[4]

Footnotes:

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Cross reference— *Parking for handicapped persons, § 44-291 et seq.*

Sec. 21-34. - Statement of nondiscrimination policy.

The city does not discriminate on the basis of handicapped status in the admission of, access to, or employment in, its municipal programs or activities.

(Ord. No. 91-2514, § 1, 12-10-91)

Sec. 21-35. - Administrative responsibilities.

The authority and responsibility for administering the nondiscrimination policy so provided for herein shall be in the community relations commission. The commission shall administer the provisions of this article to prevent or eliminate discriminating practices as provided herein.

(Ord. No. 91-2514, § 1, 12-10-91)

Sec. 21-36. - Complaint and grievance procedure.

- (a) Any person claiming to be aggrieved or injured by a discriminatory practice prohibited by Section 504 of the Rehabilitation Act of 1973, may file a complaint with the city manager. All complaints shall be in writing, shall be signed by the complainant on his or her oath, shall state the facts upon which the complaint is based, and shall contain such other information as may be required by the city manager.

Assistance in filing a complaint or grievance may be obtained by contacting the city manager at 110 Church Street, Ferguson, Missouri.

All complaints shall be filed within one hundred eighty (180) days after occurrence of the alleged discriminatory practice.

- (b) All complaints and grievances shall be investigated by the city manager, and a written determination shall be forwarded by certified mail, return receipt requested, to the grievant within ten (10) working days of filing. This notification shall include a statement to the grievant of his/her right to request a hearing before the community relations commission, and an explanation of the hearing procedures. An attempt to informally resolve the complaint and grievance by conference and conciliation shall be made by the city manager. If this fails, the grievant may request a hearing before the community relations commission as provided for herein.

(Ord. No. 91-2514, § 1, 12-10-91)

Sec. 21-37. - Procedure for enforcement.

- (a) Any person who claims to have been injured by a discriminatory practice as stated herein, hereafter called the person aggrieved, may file a complaint with the community relations commission. Complaints shall be in writing and shall contain such information and be in such form as the commission requires. Upon receipt of such a complaint, a copy shall be furnished to the person or persons who allegedly committed the alleged discriminatory practice.
- (b) Complaints shall be in writing and shall state the facts upon which the allegation are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the community relations commission, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.
- (c) If conciliation efforts have failed, the community relations commission shall promptly set a date for hearing of the matter alleged in such complaint and subsequent occurring related matters, but only after giving at least five (5) days prior written notice to the person who allegedly committed the offense.
- (d) The hearing shall be conducted in a fair and impartial manner according to the Administrative Procedures Act of the State of Missouri; the person aggrieved and the person who allegedly committed the violation may appear with legal counsel and shall have the right to present proof and cross-examine witnesses in all matters relating to the complaint and subsequent related occurrences.
- (e) After such hearing, the community relations commission will report its decision on the matter heard to the city council, the grievant, and respondent. Said decision shall be within sixty (60) working days of the filing of the grievance, or as soon thereafter as practical. The decision will be mailed by certified mail, return receipt requested. The grievant will further be advised of his/her right to file a request for review with the Department of Housing and Urban Development, Fair Housing and Equal Opportunity Division, 1222 Spruce Street, St. Louis, MO 63103-2836.

(Ord. No. 91-2514, § 1, 12-10-91)

Chapter 24 - LIBRARY^[1]

Footnotes:

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Cross reference— *Parks and recreation, Ch. 30.*

State Law reference— *City libraries, RSMo 182.140 et seq.*

ARTICLE I. - IN GENERAL

Sec. 24-1. - Use.

- (a) *Regulations.* Every library and reading room established by the library board shall be forever free to the use of the inhabitants of the library district, always subject to such reasonable rules and regulations as the municipal library district board may adopt in order to render the use of any such library and reading room to the greatest benefit to the greatest number. The board may exclude from the use of any such library and reading room any person who wilfully violates such rules. The board may extend the privileges and use of such library and reading room to persons residing outside of the library district, but in the state, upon such terms and conditions as the board may prescribe.
- (b) *Injury to library; failure to return books.* No person shall do any injury to a library and reading room or the grounds or any property thereof. No one shall injure or fail to return any book belonging to the library.

(Code 1973, § 4.12; Ord. No. 85-2054, § 1(4.49), 2-12-85)

Sec. 24-2. - Limitation on use by sex offenders.

- (a) The municipal library district board and/or the executive director of the library shall promulgate such rules and regulations to designate certain portions of the library for children (hereinafter referred to as "children's areas"). Children's areas shall contain books and other material for children. The executive director shall post appropriate signage or other form of notice showing those portions of the library which are designated as children's areas.
- (b) Sex offenders, as defined by section 29-93 of this Code, are hereby prohibited from being present in or loitering in any portion of the library which has been designated as a children's area. Sex offenders, as defined by section 29-93 of this Code, are hereby prohibited from accompanying any child into a children's area. Provided, however, that walking through a children's area to access a meeting room shall not constitute "being present in or loitering in" the children's area if such person has legitimate business in such meeting room. And, further provided that accessing an emergency exit through a children's area during an emergency or evacuation of the building shall not constitute "being present in or loitering in" the children's area.
- (c) The board and/or the director may conduct a study with regard to the hours of the day when it is likely that large numbers or groups of children will be present in the library. The board and/or director may promulgate such rules and regulations establishing these hours as restricted hours for sex offenders if the board and/or director determines that such restriction is necessary for the protection of the health, safety, and welfare of the children and other patrons of the library. These restricted hours shall be posted or shall be communicated to the public by other means in the discretion of the board and director. In the event that the board and/or director establishes restricted hours, such restriction shall not be enforced on any election day if the library is used as a polling location.

- (d) Sex offenders, as defined by section 29-93 of this Code, are hereby prohibited from entering, being present in or loitering within five hundred (500) feet of any public library during such restricted hours.
- (e) The board and/or the director shall promulgate such rules and regulations as deemed necessary, in the discretion of the board and/or director, to instruct staff of the circumstances under which police will be notified regarding a possible violation of the provisions of this section and section 29-93. The city police department shall be responsible for determining whether a person is a registered sex offender as defined in this Code and whether a violation of this section or section 29-93 has occurred.

(Ord. No. 2012-3510, § 2, 12-11-12)

Secs. 24-3—24-15. - Reserved.

ARTICLE II. - MUNICIPAL LIBRARY DISTRICT BOARD^[2]

Footnotes:

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Cross reference— *Boards, commissions and committees, § 2-306 et seq.*

Sec. 24-16. - Created; designated library board.

- (a) There is hereby created a board known as the municipal library district board. The board is hereby constituted under the provisions of RSMo 182.480, to succeed the board previously known as Ferguson Library Board. The board shall consist of nine (9) trustees, all of whom shall be appointed by the mayor, with the approval of the council. The trustees shall be chosen from the citizens at large, with reference to their fitness for office. No member of the city government shall be a trustee while holding office.
- (b) The municipal library district board is hereby designated the city's library board within the meaning of Charter section 5.1.

(Code 1973, § 4.11(a); Ord. No. 85-2054, § 1(4.47(a)), 2-12-85)

State Law reference— Similar provisions, RSMo 182.170.

Sec. 24-17. - Terms of office of trustees; removal.

The trustees of the municipal library district board shall hold office for staggered terms of three (3) years from the first day of July following their appointment, and at their first regular meeting shall cast lots for the respective terms; and annually thereafter the mayor, or other proper official, before the first day of July of each year, shall appoint three (3) trustees, who shall hold office for three (3) years. The mayor or other proper official, with the consent of the council, may remove any trustee for misconduct or neglect of duty.

(Code 1973, § 4.11(b); Ord. No. 85-2054, § 1(4.47(b)), 2-12-85)

State Law reference— Similar provisions, RSMo 182.180.

Sec. 24-18. - Organization; powers and duties.

- (a) The trustees of the municipal library district board shall:

- (1) Meet and organize, immediately after their appointment, by the election of one (1) of their number as president, and by the election of such other officers as they may deem necessary;
- (2)

Make and adopt such bylaws, rules and regulations for their own guidance, and for the government of the library, as may be expedient, and not inconsistent with RSMo 182.140—182.301;

- (3) Appoint a properly qualified librarian who shall be the chief executive and administrative officer for the library;
 - (4) Have the exclusive control of the expenditure of all moneys collected to the credit of the library fund, and for the construction of any library building, and for the supervision, care and custody of the grounds, rooms or buildings constructed, leased or set apart for that purpose.
- (b) The board, as a body corporate, may sue and be sued, complain and defend, and make and use a common seal, purchase or lease grounds, purchase lease, occupy or erect an appropriate building(s) for the use of the public library and branches thereof, receive gifts of real and personal property for the use and benefit of the public library and branch libraries thereof, the same when accepted to be held and controlled by the board of trustees, according to the terms of the deed, gift, devise or bequest of such property.
- (c) The board may extend the privileges and use of the library to nonresidents through agreements with other existing libraries allowing for exchanges of services, upon such terms and conditions as the boards of the libraries, from time to time, may prescribe.

(Code 1973, § 4.11.1; Ord. No. 85-2054, § 1(4.48), 2-12-85; Ord. No. 95-2756, § 1, 1-10-95)

State Law reference— Similar provisions, RSMo 182.200.

Sec. 24-19. - Annual report of librarian.

- (a) The librarian shall make, within eight (8) weeks after the end of the fiscal year of the library, an annual report to the municipal library district board stating:
- (1) The condition of the library and its services on the last day of the fiscal year;
 - (2) The various sums of money received from the library fund and from other sources;
 - (3) How the moneys have been expended and for what purposes;
 - (4) Such other statistics, information and suggestions as may be of general interest.
- (b) The report shall be transmitted by the board to the proper official and governing body of the city and a copy shall be transmitted at the same time to the state library.

(Code 1973, § 4.11.1; Ord. No. 85-2054, § 1(4.48), 2-12-85)

State Law reference— Similar provisions, RSMo 182.210.

Sec. 24-20. - Procedures for filling vacancies.

- (a) Vacancies in the municipal library district board, occasioned by removals, resignations or otherwise, shall be reported to the proper official and be filled in the same manner as original appointments, except that if the vacancy is an unexpired term, the appointment shall be made for only the unexpired portion of that term. Trustees shall not serve for more than three (3) successive full terms and shall not be eligible for further appointment to the board until two (2) years after the expiration of the third term.
- (b) No trustee shall receive compensation as such.
- (c) No one shall be employed by the board who is related either by blood or by marriage to any trustee.
- (Code 1973, § 4.11(c), (d); Ord. No. 85-2054, § 1(4.47(c), (d)), 2-12-85)

State Law reference— Similar provisions, RSMo 182.190.

Chapter 25 - LICENSING

ARTICLE I. - IN GENERAL

Sec. 25-1. - Purpose.

The purpose of this chapter is to supplement general licensing requirements found throughout this Code with special provisions particular to a specific license.

(Ord. No. 2006-3257, § 4, 1-24-06)

Secs. 25-2—25-14. - Reserved.

ARTICLE II. - RESIDENTIAL RENTAL REAL ESTATE LICENSING

Sec. 25-15. - Definitions.

As used in this chapter, the following terms shall be defined as follows:

Dwelling. A building or portion thereof designed and used exclusively for residential occupancy, but not including trailers, mobile homes, hotels, motels, boardinghouses, bed and breakfast inns, fraternity and sorority chapter houses, or tourist homes.

Dwelling, duplex. A building designed for or occupied by two (2) families with the individual units adjacent to one another as opposed to one above the other.

Dwelling, multiple. A building or portion thereof designed for or occupied by three (3) or more families.

Dwelling, single-family. A building designed for or occupied exclusively by one (1) family.

Dwelling, two-family. A building designed for or occupied exclusively by two (2) families.

Dwelling unit. A room or suite of rooms used as a single-family dwelling including bath and culinary accommodations.

Owner. The owner of record of residential rental property, whether an individual(s), trust, partnership or corporate entity.

Related person or entity:

- (1) A firm, partnership, joint venture, association, organization, or entity of any kind in which the applicant holds any stock, title, or other ownership interest of at least twenty (20) percent; or
- (2) A firm, partnership, joint venture, association, organization or entity of any kind which holds any stock, title, or other ownership interest in the applicant of at least twenty (20) percent; or
- (3) An individual, firm, partnership, joint venture, association, organization or entity of any kind whose affairs the applicant has the legal or practical ability to direct, either directly or indirectly, whether by contractual agreement, majority ownership interest, and lessor ownership interest, familial relationship or in any other manner.

Residential rental property. A residential dwelling, or portion thereof, occupied by, or offered for rent, lease, or occupancy, to any person(s) who otherwise qualify for an occupancy permit, who are not the owners of record of said property. "Residential rental property" is synonymous with "rooming house."

Rooming house. A residential dwelling, or portion thereof, occupied by, or offered for rent, lease, or occupancy, to any person(s) who otherwise qualify for an occupancy permit, who are not the owners of record of said property. "rooming house" is synonymous with "residential rental property."

(Ord. No. 2006-3257, § 4, 1-24-06; Ord. No. 2009-3395, § 1, 4-28-09)

Sec. 25-16. - Application for license.

Every owner of residential rental property shall apply for and obtain a license prior to engaging in the business of renting or leasing a particular dwelling or dwelling unit. Application for such license shall be made on forms approved by the city and shall be completed in full.

(Ord. No. 2006-3257, § 4, 1-24-06)

Sec. 25-17. - Multiple properties/dwelling units.

Any owner who owns more than one dwelling or dwelling unit may apply for a license which allows the rent or lease of more than one dwelling or dwelling unit provided, however, that each individual dwelling or dwelling unit complies with the inspection requirements and other requirements of this Code.

Related persons or entities, as defined herein, shall be considered to be one owner for purposes of this license and all dwellings or dwelling units shall be considered with regard to the licensing requirements of such owner.

(Ord. No. 2006-3257, § 4, 1-24-06)

Sec. 25-18. - Requirement for local manager/contact/maintenance provider.

Every licensee shall hire and maintain a local manager for each dwelling or dwelling units. Each such manager must reside within twenty-five (25) miles of the residential rental property that he or she manages. The manager's name, address, phone number and emergency contact number shall be provided to the city as part of the application for license.

(Ord. No. 2006-3257, § 4, 1-24-06)

Sec. 25-19. - Classifications of licenses.

There shall be two (2) classifications of licenses which allow the licensee to engage in the business of renting and leasing residential rental property. Those classifications are:

"Responsible" classification: An annual license granted to owners who have met all of the requirements for such license, have maintained their residential rental property in good condition and free of nuisances as described in this chapter.

"Provisional" classification: An annual license granted to owners who may not meet all of the requirements for a "responsible" classification, who, because of nuisance or property maintenance problems, may require additional monitoring or inspections, or who, because of the actions or conduct by the tenants, may cause a nuisance to exist.

(Ord. No. 2006-3257, § 4, 1-24-06)

Sec. 25-20. - Qualifications for license/issuance of license.

(a) The term of each license issued pursuant to this article shall be one year from June 1 to May 31.

Application for such license or for renewal of a license shall be made by March 30 of the year preceding the license or renewal term.

- (c) Prior to issuance or renewal of a "responsible classification" license or the renewal of such license, the owner must show:
 - (1) A lease agreement between owner and tenants which specifically sets forth the number of persons and the names of those persons allowed to reside in the particular dwelling or dwelling unit.
 - (2) Payment of the required license fee.
- (d) Prior to issuance or renewal of a "provisional classification" license or the renewal of such license, the owner must show:
 - (1) An inspection report completed by the city within the past year for the particular dwelling or dwelling unit and showing that the dwelling or dwelling unit meets the minimum livability standards as set forth in Chapter 7 of this Code.
 - (2) An exterior inspection report completed by the city within the past year for the particular dwelling or dwelling unit and showing that the dwelling or dwelling unit meets the minimum exterior standards as set forth in Chapter 7 of this Code.
 - (3) A lease agreement between owner and tenants which specifically sets forth the number of persons and the names of those persons allowed to reside in the particular dwelling or dwelling unit.
 - (4) An affidavit by the owner stating whether any tenant over the age of eighteen (18) years is registered as a sex offender pursuant to the law of any state or should be registered as a sex offender pursuant to the laws of any state. If any such tenant is or should be registered as a sex offender, owner shall also state that the property on which the particular dwelling or dwelling unit is located meets the distance requirements set forth in RSMo 566.147 (as such distances are measured from lot line of the property to lot line of the property used for one of the purposes protected by RSMo 566.147).
 - (5) Payment of the required license fee.
- (e) Provisional license conditions. Given the nature of the provisional license, the director of public works may cause a provisional license to be subject to certain conditions. Licensee shall comply with all such conditions. Failure to comply with the conditions on a provisional license shall cause such license to be suspended or revoked. Conditions may include, but are not limited to: (i) requirement that the licensee perform certain repairs or other maintenance on the property; and (ii) requirement that the licensee perform a criminal background check on prospective tenants.
- (f) Transfer of license. No license issued under this chapter shall be transferable or assignable except as hereinafter provided. In the event of the death of an owner/licensee, the next of kin of such deceased licensee, who shall meet the other requirements of this chapter may make application and the for transfer of the license to permit the continued rent or leasing of the property for the period of time for which a license fee has been paid. Whenever one (1) or more members of a partnership dies or withdraws from the partnership, upon application, the license may be transferred to the remaining partner or partners originally licensed for the remainder of the period of time for which the license fee has been paid.

(Ord. No. 2006-3257, § 4, 1-24-06; Ord. No. 2006-3270, § 1, 6-13-06; Ord. No. 2014-3553, § 2, 5-27-14)

Sec. 25-21. - Inspections and monitoring required.

- (a) *Inspections and monitoring by the city.* Throughout the term of the license year, the City shall continually perform exterior inspections of residential rental property and shall continually monitor police and criminal activity at the property, nuisance problems, building and housing code compliance, and compliance with other applicable law and ordinance with regard to use of or activity on the property and the condition of the property. The inspection reports pertaining to the property exterior required by this chapter shall be the result of an inspection by city personnel.
- (b) *Interior inspections for provisional licenses.*
 - (1) The ASHII inspection reports required by this chapter shall be the result of a thorough inspection of the interior of the dwelling or dwelling unit including the various systems and facilities therein. Each inspection shall be conducted by an ASHII-certified inspector which is listed on the schedule of inspectors kept by the city.
 - (2) Each inspection report shall set forth all information and defects pertaining to the minimum livability and maintenance standards set forth in chapter 7 of this Code.

(Ord. No. 2006-3257, § 4, 1-24-06; Ord. No. 2009-3395, § 2, 4-28-09)

Sec. 25-22. - Reclassification of license by city.

- (a) The director of public works, upon his or her own motion or upon the complaint of any person, may reclassify the status of a licensee from "responsible" to "provisional". The grounds for such reclassification shall include:
 - (1) Serious violations or repeated violations (whether minor or serious) of the city's property maintenance, housing and building codes so as to constitute a nuisance or a danger to the public health, safety or welfare; or
 - (2) Unreasonable conduct by the owner or tenants on or about the property or immediately-surrounding areas which may, taken alone or taken with other conduct, constitutes a nuisance to neighbors or the neighborhood; or
 - (3) Criminal conduct (either under state law or ordinance) by the owner or tenants on or about the property or immediately-surrounding areas; or
 - (4) Repeated violations of the requirements for occupancy of residential structures; or
 - (5) False statements made in the application for license or any required inspection report; or
 - (6) Failure to pay appropriate fees and/or fines for violations.
- (b) Before reclassifying the license status of an owner, the director of the department of public works shall give at least ten (10) days written notice of the grounds for reclassification and the date and time fixed for a hearing. The written notice shall be served on either the licensee or the local manager and may be served by personal service, facsimile or regular mail.
- (c) At such hearing, the licensee shall have the right to be represented by counsel and to produce witnesses in its behalf.
- (d) In reclassifying the license, it shall be necessary for the city manager to find that there is competent evidence proving the stated grounds for reclassification. The city manager shall issue his or her written decision within ten (10) days of the hearing.
- (e) Within five (5) days of the city manager's decision, the licensee may appeal the decision to the city council. The city council may affirm or reverse the city manager's decision without hearing or may hold a hearing and take additional evidence. Appeal from a decision of the city council may be taken as provided by the Revised Statutes of Missouri.

(Ord. No. 2006-3257, § 4, 1-24-06)

Sec. 25-23. - Suspension/revocation.

(a) The city manager, upon his or her own motion, upon the recommendation of the director of the department of public works or upon the complaint of any person, may revoke or suspend for such time as the city manager may deem necessary and property a license issued pursuant to this chapter. The grounds for suspension or revocation shall include:

- (1) Repeated serious violations of the city's property maintenance, housing and building codes so as to constitute a nuisance or a danger to the public health, safety or welfare; or
- (2) Outrageous conduct by the owner or tenants on or about the property or immediately-surrounding areas which may, taken alone or taken with other conduct, constitutes a nuisance to neighbors or the neighborhood or a danger to the public health, safety or welfare; or
- (3) More than one incident involving criminal conduct (either under state law or ordinance) by the owner or tenants on or about the property or immediately-surrounding areas; or
- (4) Repeated violations of the requirements for occupancy of residential structures; or
- (5) False statements made in the application for license or any required inspection report about any matter which affects the eligibility for such license; or
- (6) Failure to pay appropriate fees and/or fines for violations; or
- (7) Failure to comply with conditions of a provisional license.

(b) Before suspending or revoking the license of an owner, the city manager shall give at least ten (10) days written notice of the grounds for such suspension or revocation and the date and time fixed for a hearing. The written notice shall be served on either the licensee or the local manager and may be served by personal service, facsimile or regular mail.

In addition, notice of revocation of the tenant's occupancy permit shall be mailed to the tenant or posted on the property giving the same date and time fixed for hearing.

- (c) The hearing on the suspension or revocation of owner's license and the hearing on the revocation of tenant's occupancy permit shall be heard as one matter. At such hearing, the licensee and tenant shall have the right to be represented by counsel and to produce witnesses on their behalf.
- (d) In suspending or revoking the license, it shall be necessary for the city manager to find that there is competent evidence proving the stated grounds for suspension or revocation. The city manager shall issue his or her written decision within ten (10) days of the hearing.
- (e) Within five (5) days of the city manager's decision, the licensee or tenant may appeal the decision to the city council. The city council may affirm or reverse the city manager's decision without hearing or may hold a hearing and take additional evidence. appeal from a decision of the city council may be taken as provided by the Revised Statutes of Missouri.
- (f) During the pendency of the hearing before the city manager and/or city council, the property may be occupied by tenants. However, immediately following a final decision by the city manager or the city council, if an appeal is taken to the council, that upholds the original decision, the residential rental property that was the subject of the hearing shall be vacated. Continued occupancy shall subject both the owner and the tenants to penalties as provided for under this Code. In addition, considering the extent of the violations and other properties owned by the licensee that are in violation, the city may take appropriate action to vacate any or all other residential rental properties owned by the licensee.

(Ord. No. 2006-3257, § 4, 1-24-06)

Sec. 25-24. - City's remedies not limited.

Nothing in this chapter shall be construed as limiting or restricting the city's remedies in enforcement of its ordinances. In addition to the remedies and penalties provided for in this chapter, the city may apply to a court of competent jurisdiction for such legal or equitable relief as may be necessary in the pursuit of compliance with this Code.

Nothing in this chapter nor the issuance or discipline of a permit shall be construed to limit or waive the city's right to seek closure of a residential structure for up to one (1) year pursuant to Chapter 29 of this Code.

(Ord. No. 2006-3257, § 4, 1-24-06)

Sec. 25-25. - Application for renewal by owner.

Every owner of residential rental property shall apply for and obtain a renewal prior to the expiration of any license allowing the owner to engage in the business of renting or leasing of residential rental property. Application for such renewal shall be made on forms approved by the city and shall be completed in full. Applicant shall provide the same documentation and information as required for an original application.

(Ord. No. 2006-3257, § 4, 1-24-06)

Sec. 25-26. - Application for reinstatement by owner.

Any owner who has had a license suspended or revoked may apply for reinstatement of the license (provisional classification only). Application for reinstatement may not be filed within the first six (6) months following suspension or revocation. Application for reinstatement shall be made on forms approved by the city and shall be completed in full. In addition to the documentation and information required for an original application, the applicant shall also provide an ASHII inspection report dated within two (2) months prior to the application, narrative statement detailing how the concerns which gave rise to the suspension or revocation have been remedied, and any other information requested by the city.

(Ord. No. 2006-3257, § 4, 1-24-06)

Sec. 25-27. - Application for change of classification by owner.

Any owner who has been issued a provisional license, may apply for a change of classification to a responsible license. Such application shall not be made more than once per year. Application for a change in classification shall be made on forms approved by the city and shall be completed in full. In addition to the documentation and information required for an original application, the applicant shall also provide an ASHII inspection report dated within two (2) months prior to the application, a narrative statement detailing how the concerns which gave rise to the provisional classification have been remedied, and any other information requested by the city.

(Ord. No. 2006-3257, § 4, 1-24-06)

Secs. 25-28, 25-29. - Reserved.

ARTICLE III. - COLLECTORS OR DEALERS IN JUNK, SCRAP OR SECONDHAND METALS

Sec. 25-30. - Transactions involving secondhand or used metals.

All collectors, dealers, or any person who purchases and/or deals in secondhand or used copper, brass, bronze, aluminum or metal pipes, wires, fittings or other components, items or materials shall have a valid business license issued by the city. No collector, dealer or any other person shall purchase or trade-in any metal that can be identified as belonging to a public or private cemetery, to a political subdivision, or to any utility from anyone other than the cemetery, monument owner, political subdivision or utility company.

(Ord. No. 2008-3366, § 2, 8-25-08)

Sec. 25-31. - Records of transactions required; form of payment.

- (a) No collector, dealer or person shall purchase or trade in any secondhand copper, brass, bronze, aluminum or other metal pipe, wire, fitting or other component, item or material unless a written or electronic record is made for such purchase or trade. Such written or electronic record shall contain:
- (1) The name and current address of the person from whom the material was obtained;
 - (2) A copy of the driver's license or photo identification issued by the state or by the United States government or agency thereof to the person from whom the material was obtained; and
 - (3) The date, time and place of and a full description of each such transaction including the quantity by weight thereof.

The records required under this section shall be maintained for a minimum of two (2) years from the date of the transaction and shall be available for inspection by any law enforcement officer.

- (b) Any collector, dealer or person paying out an amount that is twenty-five dollars (\$25.00) or more for any secondhand or used metal material as covered in this article shall make such payment in the form of a check or shall pay by any method in which a financial institution makes and retains a record of the transaction.

(Ord. No. 2008-3366, § 2, 8-26-08)

Chapter 26 - MASSAGE ESTABLISHMENTS^[1]

Footnotes:

-- (1) --

Cross reference— *Adult entertainment establishments, Ch. 3; health, Ch. 19; offenses against public morals, § 29-156 et seq.; parks and recreation, Ch. 30; police, Ch. 33.*

ARTICLE I. - IN GENERAL

Sec. 26-1. - Definitions.

[The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Massage shall mean any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, unguents or other similar preparations commonly used in this practice.

Massage establishment shall mean any establishment having a fixed place of business, wherein massage is given, engaged in, or carried on, or permitted to be given, engaged in, or carried on, for any form of consideration.

Masseur or masseuse shall mean any person who administers to another person, for any form of consideration, massage.

Employee shall mean any person, other than a masseur or masseuse, who renders any service to the permittee, who receives compensation or any consideration, and who has no physical contact with the permittee's customers or clients.

Permittee shall mean any person receiving a permit to operate a massage establishment under the provisions of this chapter.

Person shall mean any individual, co-partnership, firm, association, company, corporation, or combination of individuals of whatever form or character.

Applicant shall mean any person who applies for a permit as required by this chapter.

Person of good moral character shall mean a person who has not been convicted of any state, federal, or municipal offense involving drugs or narcotics, robbery, burglary, theft, stealing, receiving stolen property, embezzlement, extortion, forgery, gambling, bribery, perjury, any weapons offense, any crime of violence, any violation pertaining to prostitution or illicit sexual activity, or any felony.

(Ord. No. 93-2316, § 1, 4-20-93)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 26-2. - Provisions not applicable to certain persons, establishments.

The provisions of this chapter shall not apply to hospitals, nursing homes, sanitariums, persons holding an unrevoked certificate of entitlement to practice the healing arts under the laws of the State of Missouri, barbers and beauticians duly licensed by the State of Missouri, licensed physical therapists, athletic trainers, or persons working under the direction and control of such persons or in any such establishments.

(Ord. No. 93-2316, § 1, 4-20-93)

Sec. 26-3. - Limitations on location.

- (a) No massage establishment permit, as hereinafter set forth, shall be issued by the city to any such proposed operation which shall be located less than one thousand (1,000) feet from the property line of any property on which there is an elementary school, junior high school, high school, vocational high school, church, synagogue, or within one thousand (1,000) feet of any residentially zoned district.
- (b) No massage establishment permit, as hereinafter set forth, shall be issued by the city to any such proposed operation which shall be located less than one thousand (1,000) feet from the property line of any property on which there is located another massage establishment.

(Ord. No. 93-2316, § 1, 4-20-93)

Secs. 26-4—26-15. - Reserved.

ARTICLE II. - LICENSES AND PERMITS^[2]

Footnotes:

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Cross reference— *Transfer of massage establishment permits, § 26-35; occupational license taxes generally, § 42-21 et seq.*

Sec. 26-16. - Permit Requirements—Massage establishment.

- (a) It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted, or carried on, in, or upon any premises within the city, the operation of a massage establishment as herein defined without first having obtained a permit duly issued by the director of finance, as set forth herein. A permit issued hereunder shall be valid for twelve (12) consecutive months.
- (b) It shall be unlawful for any person to engage in, conduct, or carry on, or permit to be engaged in, conducted, or carried on, the operation of a massage establishment, as herein defined, for any form of consideration, in any "motor vehicle," any "trailer," or any "vehicle" as such terms are defined in the Ferguson City Code.
- (c) Application for a permit to engage in the business of a massage establishment shall be obtained from the director of finance and shall contain the following:
 - (1) The present address and the previous address (if any) within the three (3) years immediately prior to the present address of the individual or partnership applicant;
 - (2) Written proof that the individual or partnership applicant is eighteen (18) years of age or older;
 - (3) Individual or partnership applicant's height, weight, color of eyes, color of hair, and sex;
 - (4) Two (2) portrait photographs at least two (2) inches by two (2) inches of each individual or partnership applicant;
 - (5) Businesses, occupations, or employments of the individual or partnership applicant for the three (3) years immediately preceding the date of the application;
 - (6) The history of the individual or partnership applicant in the operation of a massage establishment or similar business or occupation;
 - (7) All convictions of each individual or partnership applicant for violations of criminal statutes or ordinances;
 - (8) The name, address and two (2) portrait photographs at least two (2) inches by two (2) inches of each masseur, masseuse, and employee who is to be employed in said establishments, or engaged as an independent contractor therein, and the terms and conditions of such employment or contract;
 - (9) Written proof that each masseur, masseuse, or employee to be employed by such establishment, or engaged as an independent contractor therein, is eighteen (18) years of age or older;
 - (10) Written proof of the training and experience in the field of massage of each masseur and masseuse to be employed by such establishment, or engaged as an independent contractor therein;
 - (11) All convictions of each masseur, masseuse, employee or independent contractor, of violations of criminal statutes or ordinances, other than minor traffic violations, and lawful pardons or rehabilitative activity related thereto;
 - (12) If applicant is a corporation, each officer, director, and stockholder thereof shall furnish the same information as required herein for individual and partnership applicants.

- (13) If the applicant is a corporation, a photostatic copy of the certificate of incorporation as issued by the Secretary of State of the State of Missouri or from any other state in which incorporated, a copy of the articles of incorporation, and a certificate of good standing;
 - (14) The address of the location of the premises, and a description or drawing, map or diagram of the area of the premises, to be used as a massage establishment.
- (d) All applications for a massage establishment permit shall be accompanied by a fee of five hundred dollars (\$500.00), no part of which shall be refundable.
- (e) Upon receipt of the application for a massage establishment permit, the applicant shall be referred to the division of code enforcement, department of public works and the department of police. Each of these departments or divisions shall within thirty (30) days of the date of submission of such application review the submitted information and/or make an inspection of the premises proposed to be used as a massage establishment and submit a written report to the director of finance concerning compliance with the provisions of this chapter and all other applicable statutes and ordinances.
- (f) The city shall issue said massage establishment a permit if it is found:
- (1) That the operation, as proposed by applicant, complies or would comply with all applicable statutes and ordinances, including, but not limited to, the Ferguson building code, zoning ordinances, and health ordinances; and
 - (2) That applicant, or if applicant is a corporation, the officers, directors, and stockholders as stated herein, the masseurs and masseuses to be employed by said establishment or service, or engaged as independent contractors therein, and employees, shall be eighteen (18) years of age or older; and
 - (3) That applicant, or if applicant is a corporation, the officers, directors and stockholders as stated herein, the masseurs and masseuses to be employed by said establishment or service, or engaged as independent contractors therein, and employees, shall be of good moral character.
- Otherwise, said permit shall be denied. In the event of denial, notification and reasons for denial shall be set forth in writing and shall be sent to applicant by means of certified mail or hand delivery.
- (g) An appeal may be taken by any aggrieved party to the Circuit Court of St. Louis County.
- (h) The permittee shall submit to the city the name, address and two (2) portrait photographs, at least two (2) inches by two (2) inches, of each masseur, masseuse, independent contractor, and employee who is, subsequent to the issuance of the permit, employed or engaged in such establishment during the term of the permit.

(Ord. No. 93-2316, § 1, 4-20-93)

Sec. 26-17. - Same—Masseur or masseuse.

No person shall practice massage as a masseur, masseuse, employee, or otherwise, unless he/she has a valid permit issued by the city pursuant to the provisions of this chapter. All applications for a masseur or masseuse permit shall be accompanied by a fee of three hundred dollars (\$300.00) which shall not be refundable.

- (1) Application for a masseur or masseuse permit shall be obtained from the director of finance and shall contain the following:
 - a. The present address and the previous address (if any) within the three (3) years immediately prior to the present address of the individual applicant;
 - b. Written proof that the individual applicant is eighteen (18) years of age or older;

- c. Individual applicant's height, weight, color of eyes, color of hair, and sex, social security number, driver's license number, and birthdate;
 - d. Two (2) portrait photographs at least two (2) inches by two (2) inches of each individual applicant;
 - e. Businesses, occupations, or employments of the individual applicant for the three (3) years immediately preceding the date of the application;
 - f. The history of the individual applicant in the operation of a massage establishment or similar business or occupation;
 - g. All convictions of each individual applicant for violations of criminal statutes or ordinances;
 - h. Written proof of the training and experience in the field of massage of each individual applicant;
 - i. A medical certificate signed by a licensed physician licensed to practice in the State of Missouri, within four (4) days of the date of application, certifying that the applicant is free of communicable diseases;
 - j. Authorization for the city, its agents, and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.
- (2) Upon receipt of an application for a masseur or masseuse permit, the applicant shall be referred to the department of police which shall, within thirty (30) days of the date of submission of such application, review the submitted information and submit a written report to the director of finance concerning compliance with the provisions of this chapter and all other applicable statutes and ordinances.
- (3) The city shall issue said masseur or masseuse permit if it is found:
- a. That the applicant is eighteen (18) years of age or older; and
 - b. The applicant is free of communicable diseases; and
 - c. The applicant is a person of good moral character; and
 - d. The applicant has not previously been issued a permit under this chapter that was revoked.
- (4) Any permit for a masseur or masseuse shall be subject to revocation by the director of finance for the following reasons:
- a. Any grounds which would warrant denial of the issuance of a permit in the first instance.
 - b. Any conviction of the masseur or masseuse in violation of any provisions of this chapter.
 - c. Any conviction of a masseur or masseuse pertaining to prostitution or elicited sexual activity, or a felony.
- (5) The holder of a masseur or masseuse permit shall be entitled to a hearing before the director of finance prior to revocation of his/her permit.

(Ord. No. 93-2316, § 1, 4-20-93)

Sec. 26-18. - Permit renewal; procedure.

- (a) Applications for renewal of massage establishment or masseur or masseuse permits shall be obtained from the city on an annual basis and shall contain the same information as required for an original massage establishment or masseur or masseuse permit.
- (b) Applications for renewal of massage establishment or masseur or masseuse permits shall be accompanied by a fee of one hundred dollars (\$100.00) no part of which shall be refundable.

- (c) Applications for renewal of massage establishment or masseur or masseuse permits shall be submitted to the city at least thirty (30) days prior to the date of expiration of said permit.

(Ord. No. 93-2316, § 1, 4-20-93)

Sec. 26-19. - Display of permits; written register.

- (1) The permittee shall display the massage establishment permit in an open and conspicuous location on the premises or in the base of operations, headquarters or office.
- (2) The permittee shall maintain on the premises of the massage establishment, or in the base of operations, headquarters, a written register with the names, addresses and portrait photographs at least two (2) inches by two (2) inches of all masseurs, masseuses, whether employed by the permittee or engaged as independent contractors, and employees. Said register shall be open for inspection during business hours to all officials of the City of Ferguson.

(Ord. No. 93-2316, § 1, 4-20-93)

Sec. 26-20. - Revocation of permit.

- (a) Any permit for a massage establishment shall be subject to revocation by the director of finance for the following reasons:
- (1) Any grounds which would warrant denial of the issuance of a permit in the first instance;
- (2) Any conviction of permittee, a masseur, masseuse, employee, or customer for the violations of any provision of this chapter; or
- (3) Any conviction of a permittee, a masseur, masseuse, or employee, of any statute or ordinance pertaining to prostitution or illicit sexual activity, or any felony.
- (b) The permittee shall be entitled to a hearing before the director of finance prior to the revocation of any permit under this chapter. At such hearing, evidence will be received for the purpose of determining whether or not such permit shall be revoked or whether the permit may be retained.
- (c) The permittee shall be notified by certified mail or hand delivery of the decision of the city. Said decision shall be accompanied by findings of fact and conclusions of law.
- (d) An appeal may be taken by any aggrieved party to the Circuit Court of St. Louis County.

(Ord. No. 93-2316, § 1, 4-20-93)

Secs. 26-21—26-30. - Reserved.

ARTICLE III. - MISCELLANEOUS PROVISIONS

Sec. 26-31. - Sanitation requirements; rules and regulations.

- (a) The permittee shall comply with reasonable rules and regulations, as established by the Director of the Department of Community Health and Medical Care of St. Louis County, Missouri, pertaining to the sanitary requirements for the operation of massage establishments.
- (b) Permittee, masseurs, masseuses, employees, and customers shall comply with all such rules and regulations as promulgated herein.

(Ord. No. 93-2316, § 1, 4-20-93)

Sec. 26-32. - Alcoholic beverages prohibited.

The possession and consumption of alcoholic beverages on the premises of any massage establishment is hereby prohibited.

(Ord. No. 93-2316, § 1, 4-20-93)

Sec. 26-33. - Unlawful acts of sexual conduct for compensation or other consideration prohibited.

- (a) "*Sexual conduct*" as used herein shall mean acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person be female, breast.
- (b) "*Sexual or genital areas*" as used herein shall mean the following: genitals, public area, buttocks, anus, or the vulva or breasts of a female.
- (c) A masseur or masseuse, or an employee, shall not engage in, or offer, or agree to engage in sexual conduct in return for compensation or other consideration.
- (d) It shall be unlawful for any person in a massage establishment serving as a permittee, masseur, masseuse, customer, or client to do any of the following:
 - (1) To engage in, or offer, or agree to engage in any sexual conduct.
 - (2) To expose his/her sexual or genital areas or any portion thereof to any other person.
 - (3) Massages shall be administered solely within establishment licensed to carry on such business under this chapter.

(Ord. No. 93-2316, § 1, 4-20-93)

Sec. 26-34. - Inspection of premises.

Officials of the City of Ferguson shall have the right to enter the premises from time to time during regular business hours for the purpose of making reasonable inspections to enforce compliance with building, fire, electrical, plumbing, or health regulations, and for the purpose of determining that the provisions of this chapter, and other provisions of law or ordinance are being complied with.

(Ord. No. 93-2316, § 1, 4-20-93)

Sec. 26-35. - Transfer of permit.

- (a) No massage establishment permit shall be transferable except upon first having obtained a new permit from the city pursuant to all of the requirements for a new applicant.
- (b) For purposes of this section, a "transfer" shall be deemed to have taken place if there is any change in any partner in a partnership permittee, or any change in an officer, director, or stockholder owning ten (10) percent or more of the outstanding stock of a corporate permittee.

(Ord. No. 93-2316, § 1, 4-20-93)

Cross reference— Permit requirements for massage establishments, § 26-16.

Sec. 26-36. - Hours of operation.

Any massage establishment located in the City of Ferguson shall not be open, nor conduct operation, between the hours of 1:30 a.m. and 6:00 a.m.

(Ord. No. 93-2316, § 1, 4-20-93)

Sec. 26-37. - Reserved.

Sec. 26-38. - Penalties.

Any person who violates any provision of this chapter is guilty of a violation of this chapter and may be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the city jail for not more than four (4) months, or by both such fine and imprisonment.

(Ord. No. 93-2316, § 1, 4-20-93)

Chapter 27 - MOBILE HOMES AND TRAILERS^[1]

Footnotes:

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Cross reference— *Buildings and building regulations, Ch. 7; floodplain management, Ch. 18; parks and recreation, Ch. 30; redevelopment procedures, Ch. 34; subdivision regulations, Ch. 41; traffic and motor vehicles, Ch. 44; zoning, Ch. 49.*

State Law reference— *Manufactured home standards, RSMo Ch. 700.*

ARTICLE I. - IN GENERAL

Sec. 27-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Boat or *raft* shall mean any device used or capable of being used for transportation on water.

Boat trailer shall mean and include every vehicle designed or utilized for the transportation of any boat having the gross weight of less than five thousand (5,000) pounds, without motive power, designed for being drawn by another vehicle.

Camping trailer shall mean a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational camping or travel use.

Front yard shall mean a yard extending the full width of the lot between a principal building and the front lot line.

Length of a trailer shall include all parts of a trailer, except the tongue or tow bar and any equipment attached to the tongue or tow bar necessary for proper towing of the trailer.

Materials trailer shall mean a closed or open vehicle designed to be pulled or propelled by a truck or car to be used for the hauling of materials, tents, snowmobiles, motorcycles, or racing cars, or other similar use which has no living quarters and which is licensed as a trailer. Boat trailers and trailers used for commercial purposes are specifically excluded from this definition.

Mobile home shall mean a vehicle equipped for use as a single-family dwelling unit suitable for year-round occupancy and containing water supply, waste disposal and electrical facilities, designed for transportation on its own wheels, or on flatbed or other trailers to arrive at a site to be occupied as a dwelling complete and ready for occupancy except for hooking up to local utility connections.

Mobile home park shall mean any site, lot, field or tract of ground for rent or lease, for the permanent erection of two (2) or more mobile homes thereon. The term "mobile home park" shall include any building structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such park.

Rear yard shall mean a yard extending the full width of the lot between a principal building and the rear lot line. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Recreational vehicle shall mean a portable structure, self-propelled or towable by another vehicle, of such size and weight as not to require special highway movement permits, primarily designed, constructed or modified to provide temporary living quarters or for recreational camping or travel use, not for commercial purposes or for profit, the basic entities of which are travel trailers, camping trailers, truck campers and any combination of a boat or trailers, as defined in this section.

Side yard shall mean an open space between the front and rear yards of a lot and between the side lot lines and the main building or any projections thereof.

Trailer park shall mean any site, lot, field or tract of ground for rent or lease, for the temporary placement of two (2) or more recreational vehicles thereon. The term "trailer park" shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such park.

Travel trailer shall mean a vehicular portable unit mounted on wheels, of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle; primarily designed, constructed, and used to provide temporary living quarters for recreational camping or travel use; and of a body width of no more than eight (8) feet and a body length of not more than thirty-five (35) feet when factory-equipped for the road. A fifth-wheel trailer is classified as a travel trailer, as defined in this section.

Truck camper shall mean a portable unit, designed to be loaded onto or affixed to the bed or chassis of a truck, constructed to provide temporary living quarters for recreational camping or travel use, of the following basic types:

- (1) *Slide-in campers*: Portable units designed to be loaded onto and unloaded from the bed of a pickup truck constructed to provide temporary living quarters for recreational travel or camping use;
- (2) *Chassis-mount campers*: Portable units designed to be affixed to a truck chassis, and constructed to provide temporary living quarters for recreational travel or camping use;
- (3) *Pickup covers*: Portable units designed to be affixed to a truck chassis to provide a protective cover over the bed of the truck.

(Code 1973, § 14.01; Ord. No. 90-2435, § 1, 10-23-90)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 27-2. - Compliance with regulations required.

No mobile home, recreational vehicle or materials trailer shall be parked, used or occupied on any tract of ground within the city, except as provided in this chapter. No mobile home park or trailer park shall be operated within the city except as provided in this chapter.

(Code 1973, § 14.02)

Sec. 27-3. - Inspections.

Before any renewal of travel trailer parking or mobile home park or trailer park licenses, an inspection shall be made by the director of public works to determine that all the requirements of this chapter have been complied with.

(Code 1973, § 14.17)

Sec. 27-4. - Right of entry.

Any duly authorized agent of the city shall have the authority to lawfully enter and inspect for health and sanitation purposes any facility operating under a license or permit issued under this chapter at any reasonable time.

(Code 1973, § 14.18)

Sec. 27-5. - Parking of mobile homes, recreational vehicles, boats on a boat trailer and materials trailers.

- (a) *On streets.* No recreational vehicle shall be parked, stored, used, or occupied on any street, alley, highway, or other public place in the city for a period exceeding forty-eight (48) continuous hours within one (1) calendar week. No mobile homes or materials trailers shall be parked on any street, alley, highway, or other public place in the city.
- (b) *On residential property:*
- (1) Mobile homes shall be prohibited in all residential districts and may be located only in an approved trailer park.
 - (2) Recreational vehicles, materials trailers, and boats on boat trailers shall not be parked or stored in a front yard unless one (1) of the following conditions exist:
 - a. The width of the side yard is less than eight (8) feet; or
 - b. The recreational vehicle, materials trailer, or boat on a boat trailer cannot be placed in the side yard or rear yard in that fencing, shrubbery, trees, buildings, or other topographical conditions prohibit the placement therein.

If any of the conditions in subparagraph a. or b. exist, then a recreational vehicle, materials trailer, or a boat on a boat trailer may be parked in the front yard, providing it is on a paved driveway, does not exceed twenty-seven (27) feet in length, does not extend over or onto the front sidewalk, or come within seven (7) feet of the street.
 - (3) Rear yard parking. Materials trailers, recreational vehicles, and boats on boat trailers may be parked anywhere in the rear yard.
 - (4) The total number of recreational vehicles, boats on boat trailers and/or materials trailers allowed to be parked or stored on residential property shall not exceed two (2) and no more than one (1) shall be allowed in a side yard at any time.
- (c) *On industrial property.* Mobile homes and recreational vehicles may be parked or stored on a lot in industrial zoned districts. Water and sewage connections are prohibited. Provided, further, mobile homes and recreational vehicles parked as authorized herein cannot be lived in, used for office of business purposes, or occupied for any reason except as provided for in subsection (d) of section 27-5.
- (d) *On construction sites.* A mobile home or recreational vehicle may be used as a temporary office for a period not to exceed one (1) year.
- (e) *Habitation.* There shall be no living in the recreational vehicle and no water or sewer connections except that a permit for temporary occupancy not to exceed seventy-two (72) hours may be obtained where occupancy is on the premises of any occupied dwelling. Where occupancy is on a lot which is not a part of the premises of any occupied dwelling, it shall be limited to twenty-four (24) hours. For such temporary occupancies, the owner of a trailer need not be the owner of the property upon which the trailer is to be parked.
- (f)

Derelicts. No derelict vehicular equipment shall be stored out of doors on residential premises in an inoperative or unregistered condition for more than twenty-four (24) hours. As used in this subsection, any vehicular equipment no longer capable of the function intended shall be deemed a derelict.

- (g) *Unsafe conditions.* The owner of recreational vehicle or a materials trailer shall not park or store such unit in such a manner as to create a dangerous or unsafe condition on the property where parked or stored.

(Code 1973, § 14.03; Ord. No. 91-2454, § 1, 1-8-91; Ord. No. 93-2628, § 1, 5-25-93; Ord. No. 93-2629, § 1, 5-25-93)

Cross reference— Stopping, standing and parking generally, § 44-251 et seq.

Sec. 27-6. - Permit for placement of travel trailers outside trailer parks.

- (a) *Required.* No person shall occupy any travel trailer in any location outside of a trailer park without a permit therefor from the city clerk.
- (b) *Consent of property owner.* The permit required by this section shall be granted only upon written consent of the owner, local agent of the owner, or the lessee of the location for which the permit is issued.
- (c) *Application.* Application for a permit under this section shall contain the name of the street and the number of the occupied dwelling, the name of the occupant of the dwelling and his permission to locate, a statement of the nature and location of sanitary facilities and the permission of the occupant of the dwelling house for their use, and a statement that all waste water from trailer coach sinks shall be emptied into a proper sewer-connected fixture. The application for a permit to locate on a vacant lot shall contain the street with the name and the approximate distance from the nearest intersection, a statement of the nature and location of sanitary facilities, and a statement that all waste water from the travel trailer shall be emptied into proper sewer-connected fixture.
- (d) *Term; fee.* A permit issued under this section is valid for a period of one (1) day. The fee for such permit is three dollars (\$3.00).
- (e) *Plumbing fixtures.* The use of trailer coach plumbing fixtures is prohibited unless the fixtures meet the requirements of section 27-27.
- (f) No permit shall be issued under this section unless it is found that issuance thereof would not work to the detriment of the public health, safety and welfare.

(Code 1973, § 14.04)

Sec. 27-7. - Suspension, revocation of licenses and permits.

If, upon any inspection it shall be found that a licensee or permittee under this chapter has violated any provision of this chapter, the council may revoke or suspend any permit and order the mobile home or recreational vehicle removed or the mobile home park or trailer park closed after notice and hearing.

(Code 1973, § 14.19)

Secs. 27-8—27-20. - Reserved.

ARTICLE II. - MOBILE HOME AND TRAILER PARKS^[2]

Footnotes:

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Cross reference— Occupational license taxes generally, § 42-21 et seq.

Sec. 27-21. - License.

- (a) *Required.* No person shall construct or operate a mobile home park or trailer park in the city without a license therefor.
- (b) *Application.* With each application for a license to operate a trailer park, a sketch or diagram of the park plan indicating the information required in section 27-22 shall be submitted to the city clerk for inspection and approval by the city engineer. The application for such license shall include the name and address of the applicant and a legal description and complete plan of the proposed park.
- (c) *Agreement as to attendants.* Any applicant for a license to operate a mobile home park or trailer park shall agree in his application that responsible attendants shall be in charge of such parks at all times. At the time of application, the names of the attendants to be in active charge of the proposed park and their hours of duty shall be set forth. Any changes in attendants after the license is granted shall be filed with the city clerk within five (5) days from the date of change. Such attendants shall supervise the park and be, together with the licensee, responsible for any violation of this article which occurs in the operation of the park.
- (d) *Fee; term.* The license for a mobile home park or trailer park shall be obtained from the city clerk. The fee for such license shall be ten dollars (\$10.00) for each lot in the park for which the license is sought. The permit shall be for a period ending on midnight, April 30 following.

(Code 1973, § 14.05)

Sec. 27-22. - Park plan.

Mobile home parks and trailer parks shall be established in accordance with the following plan:

- (1) *Location; entrance and exit; roads; walkways.* Each park shall be located on a well-drained site suitable for the purpose; shall have an entrance and exit well marked and easily controlled and supervised. It shall have surfaced roads not less than eighteen (18) feet wide, well drained, plainly marked in the daytime, adequately lighted at night and easily accessible. It shall have walkways to the various buildings and they shall be surfaced and adequately lighted;
- (2) *Lots; location of mobile homes or recreational vehicles.* Each park shall provide lots for each mobile home or recreational vehicle the boundaries of which shall be indicated by corner markers, with an area not less than eight hundred (800) square feet, with a minimum width of twenty (20) feet and a minimum depth of thirty-five (35) feet. Each mobile home or recreational vehicle shall be located: At least ten (10) feet from any building, as far from the building line as the nearest adjacent permanent building on the same lot and at least five (5) feet from the property line;
- (3) *Space for laundry, play, etc.* Adequate space shall be provided in each park to afford space for clothes drying adjoining laundry facilities, locations for burning space, and play space for children;
- (4) *Legal description and map.* The plan of each park shall provide a legal description and map clearly setting out the following information:
 - a. The extent and area to be used for park purposes;
 - b. The location of driveways at entrances and exits, roadways, and walkways;
 - c. The location of sites for mobile homes or recreational vehicles;
 - d. The location and number of proposed sanitary conveniences, including proposed toilets, washrooms, laundries, laundry drying space and utility rooms;

- e. A method and plan of sewage disposal;
- f. A method and plan for garbage removal;
- g. A plan of water supply;
- h. A plan of electric lighting;
- i. The location of an incinerator and burning space;
- j. The location of children's play area.

(Code 1973, § 14.06)

Sec. 27-23. - Location restricted.

Mobile home parks and trailer parks shall be allowed to be established only in those zoning districts of the city in which such parks are a permitted use under the city's zoning or where regulations, a special use permit has been obtained therefor.

(Code 1973, § 14.07)

Sec. 27-24. - Water supply.

- (a) In each mobile home park or trailer park, a sufficient supply of pure, healthful, drinking water, approved by the county department of health, not more than two hundred (200) feet from each mobile home or recreational vehicle shall be provided in convenient locations. No common drinking vessel shall be provided. Waste from this supply shall be emptied into a drain connected to an approved disposal system. An abundant supply of hot water shall be provided at all times for bathing, washing, and laundry facilities. There shall be no drinking water in toilet compartments.
- (b) If the water supply is a mobile home park or trailer parks is for a private source, it shall be tested for sanitary quality at intervals of ninety (90) days. Tests shall be made by a laboratory approved by the county department of health. Tests shall be paid for by the licensee.

(Code 1973, § 14.08)

Sec. 27-25. - Toilet facilities.

- (a) Every mobile home park and trailer park shall provide flush toilets in conveniently located buildings not more than two hundred (200) feet from each mobile home or recreational vehicle therein. Such buildings shall be well lighted at all times, ventilated with screened openings, and constructed of moistureproof material permitting satisfactory cleaning. The floors of such facilities shall be concrete or similar material, slightly pitched to a floor drain.
- (b) Toilets shall be enclosed in separate compartments, with fly doors, and have the minimum width of two (2) feet eight (8) inches. Toilets shall be provided for each sex in the ratio of one (1) toilet for every eight (8) females and one (1) toilet for every twelve (12) males. In addition, every male toilet room shall have one (1) urinal for each sixteen (16) males, but in no case shall any male toilet room be without one (1) urinal. Toilet rooms shall contain one (1) lavatory with hot and cold running water for each two (2) toilets, but in every case not less than one (1) lavatory with hot and cold running water in every toilet room. These accommodations shall be based on the total park capacity according to the accepted plans, and shall be computed on the basis of a minimum of three (3) persons to each trailer coach, with the sexes being assumed equal in number.

(Code 1973, § 14.09)

Sec. 27-26. - Showers, laundry, and utility facilities.

- (a) Separate bathing facilities for each sex shall be provided not more than two hundred (200) feet from the most remote mobile home or recreational vehicle in each mobile home park or travel trailer park. Each section shall contain one (1) shower for each eight (8) families at least three (3) feet square with a dressing compartment of nine (9) square feet.
- (b) Laundry facilities shall be provided in the ratio of one (1) double tray and ironing board for each ten (10) mobile homes or recreational vehicles in the park. When ironing boards are provided, they shall be located in a separate space from the laundry trays.
- (c) The construction of the showers, laundry, and utility buildings shall be the same or similar to that designated for the toilets by section 27-25.
- (d) If in local means of collection of waste is provided, then slop sinks shall be provided properly connected to the sewerage system at a maximum distance of not more than one hundred (100) feet from any trailer coach.

(Code 1973, § 14.10)

Cross reference— Utilities generally, Ch. 45.

Sec. 27-27. - Sewage disposal.

- (a) Waste from showers, toilets, slop sinks, and laundries in every mobile home park or trailer park shall be wasted into a public sewer system in such a manner as approved by the plumbing official or into a private sewer and disposal plant or septic tank system approved by the plumbing official.
- (b) All kitchen sinks, wash basins or lavatories, bathtubs or shower tubs in any mobile home or recreational vehicle located in the park shall empty into an approved receptacle or disposal system.
- (c) Toilet and water closets not connected with an approved disposal system shall not be used. No person shall use or permit the use of such fixtures.

(Code 1973, § 14.11)

Sec. 27-28. - Solid waste disposal.

Each mobile home park or trailer park shall provide supervision and equipment sufficient to prevent littering the ground with solid waste. Flytight metal depositories with tight-fitting covers shall be conveniently located not farther than two hundred (200) feet from any mobile home or recreational vehicle in such park. Depositories shall be kept in a sanitary condition at all times. Garbage and rubbish shall not be mixed.

(Code 1973, § 14.12)

Cross reference— Solid waste, Ch. 24.

Sec. 27-29. - Registration of guests at trailer parks.

Each trailer park shall keep a record of all guests, noting the name and address of each occupant; the license numbers of all units; and the state issuing such license. The park shall keep a copy of the registry available for inspection at any time by any duly authorized agent of the city and shall not destroy such registry until the expiration of twelve (12) months following the date of registration.

(Code 1973, § 14.13)

Sec. 27-30. - Removal of wheels of recreational vehicles in mobile home parks.

Any action toward the removal of wheels, except for temporary purposes of repair or other action, to attach a recreational vehicle located in a mobile home park to the ground by means of posts, piers, foundation, or skirting, shall subject the trailer to the requirements of the building code of the city, adopted by section 7-41, as well as this chapter.

(Code 1973, § 14.14)

Sec. 27-31. - Additions to recreational vehicles in trailer parks prohibited.

No permanent additions of any kind shall be built on or become a part of any recreational vehicle located in a trailer park.

(Code 1973, § 14.15)

Sec. 27-32. - Notice of communicable diseases.

The attendant of any mobile home park or trailer park shall notify immediately the city of any communicable disease in such park.

(Code 1973, § 14.16)

Cross reference— Health, Ch. 19.

Chapter 28 - NUISANCES^[1]

Footnotes:

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Cross reference— *Dangerous buildings declared nuisances, § 7-192; health, Ch. 19; littering, § 29-65; diseased trees declared nuisance, § 46-11; overgrown weeds declared nuisance, § 46-27.*

State Law reference— *Municipal authority to suppress nuisances, RSMo 71.780.*

ARTICLE I. - IN GENERAL

Sec. 28-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Graffiti shall mean either or both of the following, as the context requires: (1) the intentional act of defacing, damaging, or destroying any public or private building, structure, place, or personal property affixed to real property, within the city, by spraying or marking with paint, ink, chalk, dye, or other similar substance any drawing, inscription, figure, or mark of the type commonly known and referred to as graffiti; or (2) any such drawing, inscription, figure, or mark so sprayed or marked.

Lessee shall mean any person who leases all or a portion of a premises on a day to day, week to week, or month to month basis.

Owner shall mean any person or persons who have a vested fee simple title, an equitable interest, or a life interest in any lot or tract of land or in a particular part thereof, whether such tract or lot of land is held in common by joint owners.

Person having control shall mean any occupant, agent, servant, representative or employee of any owner, or lessee or renter of any property who exercises any control on behalf of the owner, lessee or renter.

Renter shall mean any person who rents all or a part of a premises on a day to day, week to week, or month to month basis. For purposes of this chapter, a person over the age of eighteen (18) years who is living in a household with a parent but who is neither the owner, the lessee, the head of the household, or the person having control, shall be considered to be a "renter," regardless of whether they pay rent for such occupancy in money.

(Code 1973, § 12.04; Ord. No. 97-2910, § 1, 5-27-97)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 28-2. - Nuisances designated.

The following are hereby declared to be nuisances:

- (1) Any act done or committed, or suffered to be done or committed by any person, or any substance or thing kept, maintained, placed or found in or upon any public or private place which is injurious or dangerous to the public health;
- (2) Any building kept or maintained in a condition unhealthy to the public;
- (3) The deposit into any sewer, sewer inlet or privy vault, which has a sewer connection, any article or substance that may obstruct or damage the sewer;
- (4) Any cellar, or basement, wet or damp from defective hydrants, water pipes, sewer pipes, cisterns, or wells, gutters, drains or rain spouts;
- (5) Any urine, liquid waste from stables, swills, water from privy vaults, waste water from sinks, wash water or other foul or nauseous liquid waste allowed to accumulate on public property or private property or discharge upon public or private property;
- (6) Any well or cistern where a chemical analysis shows the water of such well or cistern to be of any impure or unwholesome nature;
- (7) Any rubbish, trash, lumber not piled or stacked twelve (12) inches off the ground, rocks or bricks, tin, steel, broken furniture, flammable material which may endanger public safety, or any material which is unhealthy or unsafe, or any ashes, foul, nauseous, or unclean animal or vegetable matter, yard waste, or other substance which is or may become putrid, offensive, or unhealthy to the public, thrown, deposited, or allowed to escape into or upon any private property;
- (8) Any partly dismantled, wrecked, dilapidated, abandoned or nonoperative automobile or other motor vehicle or parts thereof which are found upon any private property, and which are not housed in a garage, basement or other enclosed building. Any motor vehicle or automobile or any elements thereof found disassembled upon private property shall be considered to be dismantled, abandoned, wrecked or dilapidated for the purpose of this ordinance when such automobile or other vehicle is found lacking essential component parts which prevent it from being immediately operative under its own power or which vehicle or automobile is not properly licensed;

(9)

Any partially dismantled, wrecked, junked, dilapidated, unfloatable, abandoned or discarded boat or parts thereof which are found upon any private property and allowed to remain on such property longer than seven (7) days unless said boat or parts thereof are housed in an enclosed garage, basement or other enclosed building;

- (10) Any pond or pool of unwholesome, offensive, or stagnant water upon any premises and any foul or dirty water or liquid when discharged through any drain, pipe, or spout, or thrown into or upon any street, thoroughfare, or premises to the injury and annoyance of the public;
- (11) Handbills on public or private property. No person shall tack, stick, paste, or fasten in any manner any handbill or flier containing commercial advertising of a written, printed, or pictorial nature upon any public property within the limits of the city; or, on any motor vehicle, dwelling, or other structure within the city without the consent of the owner or occupant thereof.

(Code 1973, § 12.03(1)—(8); Ord. No. 86-2173, § 1, 10-14-86; Ord. No. 92-2535, § 1, 6-9-92; Ord. No. 97-2921, § 1, 7-15-97; Ord. No. 2003-3176, § 1, 4-22-03; Ord. No. 2005-3252, § 2, 10-11-05)

Sec. 28-3. - Maintenance of nuisance prohibited.

No person shall create, cause, permit or maintain a nuisance, as defined by law or section 28-2, or other ordinance.

(Code 1973, § 12.02)

Sec. 28-4. - Notice to abate.

- (a) Whenever it comes to the attention of the city, or the city becomes aware of the existence of a nuisance, the city shall investigate the nuisance and have prepared a report concerning the same. If a nuisance is found to exist, a warning notice shall be left with any person occupying such property, whether such person is the owner, renter or lessee thereof, by delivering such warning notice to such person, or if no one is present in the property or refuses to accept the notice, then by posting the warning notice on the front, or side or rear entrance to the residence or building.
- (b) The warning notice provided in subsection (a) shall contain:
 - (1) The address or legal description of the property;
 - (2) The number of chapter of this Code being violated;
 - (3) The nature of the violation, and the date by which such violation shall be removed or abated;
 - (4) A notice of the penalty for failure to remove or abate the nuisance, stating that if the nuisance reoccurs by the same occupier, owner or person in charge, a summons will be issued without further notice.
- (c) If the nuisance occurs on unimproved property or where the residence or building is unoccupied, the property may be posted as provided in subsection (b), and if the property is unimproved by placing the notice upon a tree or other object upon such property, as may be available.
- (d) A notice in writing containing the same information as provided on the warning notice provided in subsection (b) shall be sent to the owner or any other person having control of the property at the last known address of the owner, or at the address of the person having control, by ordinary mail, postage prepaid.

(Code 1973, § 12.05)

Sec. 28-5. - Recurring creation or maintenance of nuisance.

- (a) Once a notice has been given to the head of the household, the renter, the lessee, or the person having control or the owner of a lot or tract of land in or on which a nuisance has been created or maintained, and after abatement thereof, the same nuisance recurs in or on the same lot or tract of land by the same person or persons responsible therefore, no further notice need be given. Thereafter such responsible person or persons may be summoned into municipal court to answer to the charges against him.
- (b) In addition to the court costs normally assessed in all such cases, there shall be added thereto all costs incurred by the city in abating the nuisance, as set out in section 28-6.

(Code 1973, § 12.06)

Sec. 28-6. - Procedure upon neglect of notice.

- (a) *Summons, service of.* If a warning notice is given as provided in section 28-4, and if after the time for removal or abatement has lapsed the property is reinspected and the inspecting officer finds and determines that the nuisance has not been removed or abated, the inspecting officer shall fill out and sign as the complainant a complaint and information form, hereinafter referred to as a summons, directed by name to the occupant, owner, or person in charge of the property, showing the address or legal description of property on which the nuisance is located, and such other information as may be available to the inspecting officer as shown on the summons, and specifying the section of the chapter which is being violated and setting forth in general the nature of the nuisance, and may serve the summons on the occupant, owner, or a person in charge, or any or all of such persons. The summons shall contain a date on which the case will be on the municipal court docket for a hearing. The city attorney or assistant city attorney shall sign the original copy of all such summons, and the original thereof shall be forwarded to the clerk of the municipal court for inclusion on the court's docket for the date shown on the summons.
- (b) *Summons, delivery by mail.* If no one is found at the property to accept a summons for failure to remove or abate a nuisance, the inspecting officer shall fill out and sign the summons as the complainant as provided in subsection (a) and deliver the original and one (1) copy of the summons to the clerk of the municipal court, who shall verify or insert the date that the case has been set for hearing before the municipal court. The clerk shall then mail the copy of the summons by ordinary mail, postage prepaid to the person named therein at the address shown on the summons, or at such other address as the person charged therewith may be found, or shall be known to reside. If the mail is duly addressed to the person named in the summons at the address as provided above and is not returned to the city, it shall be deemed to have been delivered and received by the person to whom addressed.
- (c) *Abatement by city; costs assessed to person responsible.* If the occupant, owner, or person in charge of property for which a warning notice has been given to remove or abate a nuisance, fails to remove or abate the nuisance in the time specified in the notice, whether on public or private property, the city may remove the same and thereby abate the nuisance and, if necessary, may lawfully enter upon the property on which the nuisance remains unabated to remove or abate such nuisance at the costs of the person or persons responsible for creating or maintaining the nuisance, if the cause therefor lies with any of the persons as defined in section 28-4.
- (d) *Payment of costs; special tax bill or judgment.* All costs and expenses incurred by the city in removing or abating any nuisance on any private property may be assessed against the property in the form of a special tax bill, in the same manner and with the same effect as special tax bills issued for the paving of streets. The costs and expenses incurred by the city shall include the actual costs billed by third

parties performing the abatement and paid by the city, costs billed by the city attorney related to the abatement and paid by the city; costs related to time spent by city personnel in performing tasks related to the abatement and in preparation of the tax bill, lien, or other paperwork (these costs shall be based on the time spent in quarter of an hour increments multiplied by the hourly rate of pay for the employee); and costs related to the collection of such costs and expenses.

All city departments shall provide invoices and other necessary documentation to the department of public works in order to determine the costs and expenses related to abatement of a nuisance. The department of public works will provide any information necessary to the finance department for proper billing of such costs and expenses and for general oversight purposes.

The city will cause to be mailed to the owner of each residence, at his or her last known address, a copy of the special tax bill for abatement costs. The costs shall be due and payable within thirty (30) days of mailing. Any unpaid and delinquent costs, whether or not reduced to judgment, shall become a lien on the property until such is fully satisfied.

Alternatively, the cost of removing or abatement the nuisance, whether on public or private property, may be made a part of the judgment and sentence by a municipal judge, in addition to any other penalties and costs imposed, if the person charged either pleads guilty or is found guilty of causing, creating or maintaining a nuisance on public or private property.

In addition to any other remedies provided by law, the city may initiate and pursue an action in a court of competent jurisdiction to recover any unpaid fees, interest and penalties from any person liable therefore, and, shall be entitled to recover its costs, including reasonable attorney fees.

- (e) *Warning notice, first offense.* In all cases where the nuisance on public or private property is the first offense for the person charged therewith, the warning notice provisions of section 28-4 shall be observed. The notice shall specify the number of days in which the nuisance shall be removed or abated, which time shall not be less than three (3) days nor more than seven (7) days, except in emergency cases as set out in section 28-7.
 - (f) *Warning notice, subsequent offenses.* In all cases where the nuisance on public or private property is a repeat offense on such property, the warning notice provisions of section 28-5 shall be observed.
- (Code 1973, § 12.07(a)—(c), (e); Ord. No. 97-2921, § 1, 7-15-97; Ord. No. 2006-3262, § 1, 3-14-06; Ord. No. 2007-3295, § 1, 1-9-07)

Sec. 28-7. - Summary abatement.

The city may prevent, abate or remove all nuisances on public or private property in a summary manner. Summary removal or abatement by the city shall occur only where an existing nuisance creates an emergency whereby reasonable persons would not differ upon the necessity of immediate removal or abatement thereof for reasons of health, safety, morals or general welfare of the inhabitants of the city.

(Code 1973, § 12.07(d))

ARTICLE II. - GRAFFITI

Sec. 28-8. - Graffiti unlawful.

It shall be unlawful for any person to create graffiti on any public or private building, structure, place, or personal property affixed to real property within the city, which graffiti is visible to any person utilizing any public or private right of way, and any graffiti as referenced herein is declared to be a nuisance

pursuant to this chapter.

(Ord. No. 97-2910, § 1, 5-27-97)

Sec. 28-9. - Penalty.

Any person convicted of a violation of section 28-8, shall, upon conviction, be subject to the penalty provided in chapter 1, section 1-15 of the Municipal Code of the City of Ferguson. When appropriate, in addition to such fine and/or imprisonment, the court shall require those convicted of violating section 28-8 to remove the graffiti and restore to its original condition the property on which the graffiti was created.

(Ord. No. 97-2910, § 1, 5-27-97)

Sec. 28-10. - Abatement of nuisance.

Whenever the public works director determines that graffiti exists on any public or private building, structure, place, or any personal property affixed to real property, within the city, and that such graffiti is visible to any person utilizing any public or private right-of-way, the public works director may take actions pursuant to the definition in section 28-1 to determine whether such graffiti exists and constitutes a nuisance, and to provide for the abatement of any such nuisance, in accordance with the procedures set forth in sections 28-3 through 28-7. In determining a prescribed period of time to abate a nuisance of graffiti in any order pursuant to this chapter, the director shall take into account how the then seasonal temperature may affect the ability to paint exterior surfaces or to take other actions involved in abating the graffiti nuisance.

(Ord. No. 97-2910, § 1, 5-27-97)

Secs. 28-11—28-14. - Reserved.

ARTICLE III. - STORAGE

Sec. 28-15. - Regulation of portable on demand storage units.

(1) As used in this section the following terms shall mean as follows:

Accessory building. A subordinate building customarily incidental to and located on the same lot occupied by a main building, subordinate in area, extent, or purposes to the main building, limited to and contributing to the comfort, convenience or necessity of the occupants of the main building. For purposes of this section, an accessory building differs from a temporary storage device, portable on demand storage unit and storage shed in that it is constructed pursuant to a building permit, and is permanently affixed to realty.

PODS. An acronym and common name for portable on demand storage units.

Portable on demand storage unit. A container designed, constructed and commonly used for non-permanent placement on property for the purpose of temporary storage of personal property.

Storage shed. A prefabricated structure designed, intended and installed on property primarily for the long term storage of yard, pool and garden equipment and similar personal property.

Storage trailers. Includes trucks, trailers, and other vehicles or parts of vehicles designed to be hitched or attached to trucks, tractors or other vehicles for movement from place to place used as a temporary storage device.

- (2) It shall be unlawful for any person to park, place or suffer placement of PODS or similar device in or upon any street, highway, roadway, designated fire lane or sidewalk in the city.
- (3) It shall be unlawful for any person to park, place or suffer placement of PODS or similar device upon any lot or property in the city other than on a concrete, asphalt or other improved surface.
- (4) It shall be unlawful for any person to park, place or suffer placement of PODS or similar device upon any lot or property in the city used for commercial purposes or containing three (3) or more dwelling units in such a way as to block or interfere with access to a garage or off-street parking areas.
- (5) It shall be unlawful for any person to park, place or suffer placement of PODS or similar device upon any lot or property in the city for more than ten (10) consecutive days or on more than three (3) occasions in any twelve-month period.
- (6) It shall be unlawful for any person to park, place or suffer placement of PODS or similar device upon any front yard, as defined in the zoning ordinance, for a period of time exceeding three (3) days.
- (7) This section shall not apply to the use or placement of construction trailers and equipment on property in association with ongoing construction activities carried out pursuant to a valid building permit, nor to the placement of accessory buildings or storage sheds.
- (8) In the event that a portable on demand storage unit is placed on property in violation of this section or remains on property beyond the allowable time period as set forth in this section, such condition shall constitute a nuisance and may be abated in accordance with the procedure set forth in sections 28-4 through 28-7 of this chapter.

(Ord. No. 2008-3361, § 1, 7-22-08)

Chapter 29 - OFFENSES^[1]

Footnotes:

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Cross reference— *Police, Ch. 33; traffic and motor vehicles, Ch. 44.*

State Law reference— *Crimes and punishment generally, RSMo Ch. 556 et seq.; culpable mental states defined, applied and when not required, RSMo 562.016—562.026.*

ARTICLE I. - IN GENERAL

Sec. 29-1. - Responsibility for the conduct of another.

- (a) A person is responsible for the conduct of another when:
 - (1) The section defining the offense makes him so responsible; or
 - (2) Either before or during the commission of an offense with the purpose of promoting the commission of an offense, he aids or agrees to aid or attempts to aid another person in planning, committing or attempting to commit the offense.
- (b) A person is not responsible for the conduct of another if:
 - (1) He is the victim of the offense committed or attempted;
 - (2) The offense is so defined that his conduct was necessarily incident to the commission or attempt to commit the offense. If his conduct constitutes a related but separate offense, he is responsible for that offense but not for the conduct or offense committed or attempted by the other person;
 - (3) Before the commission of the offense he abandons his purpose and gives timely warning to law enforcement authorities or otherwise makes proper effort to prevent the commission of the offense.

(c) The defense provided by subsection (b)(3) is an affirmative defense.
(Code 1973, §§ 1.07, 51.33)

State Law reference— Similar provisions, RSMo 562.041.

Sec. 29-2. - Penalties.

Whenever any act is prohibited or is declared to be unlawful or an offense or misdemeanor, or the doing of any act as required, or failure to do any act, is declared to be unlawful or an offense or a misdemeanor in this chapter, upon conviction of a violation of such provisions of this chapter, the violator shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment in the city jail not exceeding three (3) months, or by both such fine and imprisonment.

(Ord. No. 95-2804, § 1, 11-28-95)

Secs. 29-3—29-11. - Reserved.

Sec. 29-12. - Police department canine protection.

No person may taunt, torment, tease, beat, strike, interfere with, endanger, injure or kill, or administer or subject any desensitizing drugs, chemicals, or substance to any dog used by a law enforcement officer in the performance of his/her duties, or do any of these acts when the dog is placed in a kennel or other enclosure while on or off duty.

(Ord. No. 97-2911, § 1, 6-10-97)

Secs. 29-13—29-15. - Reserved.

ARTICLE II. - OFFENSES AGAINST PUBLIC ADMINISTRATION^[2]

Footnotes:

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Editor's note—Ord. No. 2013-3526, § 1, adopted May 28, 2013, renumbered former §§ 29-17—29-24 of Art. II as §§ 29-20—29-27 and enacted new §§ 29-17—29-19 as set out herein. The historical notation has been retained with the amended provisions for reference purposes.

Cross reference— Administration generally, Ch. 2.

State Law reference— Offenses against the administration of justice, RSMo Ch. 575; offenses affecting government, RSMo Ch. 576.

Sec. 29-16. - Failure to comply with order of police officer.

It shall be unlawful for any person to:

- (1) Fail to comply with the lawful order or request of a police officer in the discharge of the officer's official duties where such failure interfered with, obstructed or hindered the officer in the performance of such duties; or
- (2) Fail to give information requested by a police officer in the discharge of his/her official duties relating to the identity of such person; or
- (3) In any matter within the jurisdiction of any law enforcement officer of this city, knowingly: falsifies, conceals or covers up by any trick, scheme or device, a material fact; makes any materially false, fictitious or fraudulent statement or representation; or makes or uses any false

writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry.

(Code 1973, §§ 6.08, 26A.3, 26A.4, 26A.10, 51.24, 51.41.1(a); Ord. No. 2013-3526, § 1, 5-28-13)

Cross reference— Administration, Ch. 2.

State Law reference— Resisting or interfering with arrest, RSMo 575.150; interference with legal process, RSMo 575.160.

Sec. 29-17. - Resisting or interfering with arrest, detention or stop.

- (a) A person commits the offense of resisting or interfering with arrest, detention or stop if, knowing that a law enforcement officer is making an arrest or attempting to lawfully detain or stop an individual or vehicle, or the person reasonably should know that a law enforcement officer is making an arrest or attempting to lawfully detain or lawfully stop an individual or vehicle, for the purpose of preventing the officer from effecting the arrest, stop or detention, the person:
 - (1) Resists the arrest, stop or detention or such person by using or threatening the use of violence or physical force or by fleeing from such officer; or
 - (2) Interferes with the arrest, stop or detention of another person by using or threatening the use of violence, physical force or physical interference.
- (b) This section applies to arrests, stops or detentions with or without warrants and to arrest, stops or detentions for any crime, infraction or ordinance violation.
- (c) A person is presumed to be fleeing a vehicle stop if that person continues to operate a motor vehicle after that person has seen or should have seen clearly visible emergency lights or has heard or should have heard an audible signal emanating from the law enforcement vehicle pursuing that person.
- (d) It is no defense to a prosecution under subsection (a) of this section that the law enforcement officer was acting unlawfully in making the arrest. However, nothing in this section shall be construed to bar civil suits for unlawful arrest.

(Ord. No. 2013-3526, § 1, 5-28-13)

Sec. 29-18. - Interference with legal process.

- (a) A person commits the offense of interference with legal process if, knowing any person is authorized by law to serve process, for the purpose of preventing such person from effecting the service of any process, he/she interferes with or obstructs such person.
- (b) "Process" includes any writ, summons, subpoena, warrant other than an arrest warrant, or other process or order of a court.

(Ord. No. 2013-3526, § 1, 5-28-13)

Sec. 29-19. - Obstructing government operations.

No person shall purposely obstruct, impair, hinder or prevent any police officer, firefighter, or other city employee from performing his or her official governmental duties in any manner whatsoever including the use or threat of violence or force or by physical interference or obstacle.

(Ord. No. 2013-3526, § 1, 5-28-13)

Sec. 29-20. - False impersonation.

A person commits the offense of false impersonation if he

- (1) Falsely represents himself to be a public servant with purpose to induce another to submit to his pretended official authority or to rely upon his pretended official acts, and:
 - a. Performs an act in that pretended capacity;
 - b. Causes another to act in reliance upon his pretended official authority; or
- (2) Falsely represents himself to be a person licensed to practice or engage in any profession for which a license is required by the laws of this state with purpose to induce another to rely upon the representation, and:
 - a. Performs an act in that pretended capacity;
 - b. Causes another to act in reliance upon the representation.

(Code 1973, § 51.23; Ord. No. 2013-3526, § 1, 5-28-13)

State Law reference— Similar provisions, RSMo 575.120(1).

Sec. 29-21. - False reports.

- (a) A person commits the offense of making a false report if he knowingly:
 - (1) Gives false information to a law enforcement officer for the purpose of implicating another person in a crime;
 - (2) Makes a false report to a law enforcement officer that a crime has occurred or is about to occur;
 - (3) Makes a false report or causes a false report to be made to a law enforcement officer, security officer, fire department or other organization, official or volunteer, which deals with emergencies involving danger to life or property that a fire or other incident calling for an emergency response has occurred.
- (b) It is a defense to a prosecution under subsection (a) that the actor retracted the false statement or report before the law enforcement officer or any other person took substantial action in reliance thereon.
- (c) The defendant shall have the burden of injecting the issue of retraction under subsection (b).

(Code 1973, §§ 7.08, 51.25; Ord. No. 2013-3526, § 1, 5-28-13)

State Law reference— Similar provisions, RSMo 575.080(1—3).

Sec. 29-22. - Escape from custody.

A person commits the offense of escape from custody if, while being held in custody after arrest for any crime, he escapes from custody.

(Ord. No. 2013-3526, § 1, 5-28-13)

State Law reference— Similar provisions, RSMo 575.200(1).

Sec. 29-23. - Escape from confinement.

A person commits the offense of escape from confinement if, while being held in confinement after arrest for any crime, or while serving a sentence after conviction for any crime, he escapes from confinement.

(Code 1973, § 9.46; Ord. No. 2013-3526, § 1, 5-28-13)

State Law reference— Similar provisions, RSMo 575.210(1).

Sec. 29-24. - Failure to return to confinement.

- (a) A person commits the offense of failure to return to confinement if, while serving a sentence for any crime under a work-release program, or while under sentence of any offense to serve a term of confinement which is not continuous, or while serving any other type of sentence for any offense wherein he is temporarily permitted to go at large without guard, he purposely fails to return to confinement when he is required to do so.
- (b) This section does not apply to persons who are free on bond, bail or recognizance, personal or otherwise, nor to persons who are on probation or parole, temporary or otherwise.

(Code 1973, § 9.47; Ord. No. 2013-3526, § 1, 5-28-13)

State Law reference— Similar provisions, RSMo 575.220(1), (2).

Sec. 29-25. - Aiding escape of a prisoner.

A person commits the offense of aiding escape of a prisoner if he:

- (1) Introduces into any place of confinement any deadly weapon or dangerous instrument, or other thing adapted or designed for use in making an escape, with the purpose of facilitating the escape of any prisoner confined therein, or of facilitating the commission of any other crime;
- (2) Assists or attempts to assist any prisoner who is being held in custody or confinement for the purpose of effecting the prisoner's escape from custody or confinement.

(Code 1973, §§ 6.09, 9.48; Ord. No. 2013-3526, § 1, 5-28-13)

State Law reference— Similar provisions, RSMo 575.230(1).

Sec. 29-26. - Contempt of court.

A person commits the offense of contempt of court if he:

- (1) Commits disorderly, contemptuous or insolent behavior during a court session, in the immediate view and presence of the judge which directly tends to interrupt the proceedings or to impair the respect due the judge's authority;
- (2) Commits any breach of the peace, noise, or other disturbance directly tending to interrupt the court proceedings;
- (3) Commits willful disobedience of any process or order lawfully issued or made by the judge;
- (4) Resists willfully the lawful order or process of the judge; or
- (5) Commits the contumacious and lawful refusal to be sworn as a witness or, when so sworn, to refuse to answer any legal and proper question or interrogatory.

(Ord. No. 2013-3526, § 1, 5-28-13)

Sec. 29-27. - Misuse of the 9-1-1 system.

- (a) *Definitions.* As used in this chapter the following terms shall have the meanings and definitions hereinafter provided:

Emergency: Any incident involving danger to life or property that calls for an emergency response dispatch of police, fire, EMS or other public safety organization.

Misuse of 9-1-1 emergency telephone service: Calling "9-1-1" for nonemergency situations causing dispatchers, operators or equipment to be in use for such nonemergency situation.

Repeatedly: Three or more times within a one month period

(b) *Misuse of the 9-1-1 emergency telephone service prohibited.*

- (1) It shall be unlawful for any person to repeatedly misuse the 9-1-1 emergency telephone service.
- (2) It shall be unlawful for any person to misuse the 9-1-1 emergency telephone service after receiving a written warning regarding the misuse of the 9-1-1 system from police or emergency personnel, regardless of the number of calls during any one period of time.

(Ord. No. 2005-3253, § 1, 10-25-05; Ord. No. 2013-3526, § 1, 5-28-13)

Sec. 29-28. - Assault on a law enforcement officer.

A person commits the offense of assault of a law enforcement officer if:

- (1) He/she attempts to cause or recklessly causes physical injury to a law enforcement officer;
- (2) With criminal negligence he/she causes physical injury to a law enforcement officer by means of a deadly weapon;
- (3) He/she purposely places a law enforcement officer in apprehension of immediate physical injury;
- (4) He/she recklessly engages in conduct which creates a grave risk of death or serious physical injury to a law enforcement officer; or
- (5) He/she knowingly causes or attempts to cause physical contact with a law enforcement officer without the consent of the law enforcement officer.

(Ord. No. 2013-3526, § 1, 5-28-13)

Secs. 29-29—29-35. - Reserved.

ARTICLE III. - OFFENSES AGAINST THE PERSON^[3]

Footnotes:

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State Law reference— *Offenses against the person, RSMo Ch. 565.*

Sec. 29-36. - Assault.

A person commits the offense of assault if he:

- (1) Attempts to cause or recklessly causes physical injury to another person;
- (2) With criminal negligence, causes physical injury to another person by means of a deadly weapon;
- (3) Purposely places another person in apprehension of immediate physical injury;
- (4) Recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person;
- (5) Knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative.

(Code 1973, §§ 51.01, 51.05)

State Law reference— Similar provisions, RSMo 565.070.

Sec. 29-37. - Consent.

- (a) When conduct is charged to constitute an offense because it causes or threatens physical injury, consent to that conduct or to the infliction of the injury is a defense only if:
 - (1) The physical injury consented to or threatened by the conduct is not serious physical injury;

- (2) The conduct and the harm are reasonably foreseeable hazards of:
 - a. The victim's occupation or profession;
 - b. Joint participation in a lawful athletic contest or competitive sport;
 - (3) The consent establishes a justification for the conduct under RSMo Ch. 563.
- (b) The defendant shall have the burden of injecting the issue of consent.

State Law reference— Similar provisions, RSMo 565.080.

Sec. 29-38. - Endangering the welfare of a child.

A person commits the offense of endangering the welfare of a child if:

- (1) He with criminal negligence acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen (17) years old; or
- (2) He knowingly encourages, aids or causes a child less than seventeen (17) years old to engage in any conduct which causes or tends to cause the child to engage in behavior or associations which are injurious to his or her welfare or to the welfare of others or to violate state law or municipal ordinance.
- (3) Being a parent, guardian or other person legally charged with the care or custody of a child less than seventeen (17) years old, he recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent him from engaging in any conduct which causes or tends to cause the child to engage in behavior or associations which are injurious to his or her welfare or to the welfare of others or to violate state law or municipal ordinance.
- (4) He knowingly encourages, aids or causes a child less than seventeen (17) years of age to enter into any room, building or other structure which is used for the illegal use, keeping or selling of controlled substances.

(Ord. No. 2005-3229, § 1, 2-8-05)

Sec. 29-39. - Domestic and family violence.

(a) *Construction.* This section should be construed to promote:

- (1) The protection and safety of all victims of domestic or family violence in a fair, prompt, and effective manner;
- (2) The prevention of future violence in all families; and
- (3) Batterer accountability.

(b) *Definitions, general.* Unless the context otherwise requires, as used in this section:

- (1) *Domestic or family violence* means the occurrence of one (1) or more of the acts listed under subsection (e) of this section and done by a family or household member, but does not include acts of self-defense.
- (2) *Family or household members* include:
 - a. Persons who are current or former spouses;
 - b. Persons who live together or who have lived together;
 - c. Persons who are dating or who have dated;
 - d. Persons who are engaged in or who have engaged in a sexual relationship;
 - e. Persons who are related by blood or adoption;
 - f. Persons who are related or formerly related by marriage;

- g. Persons who have a child in common; and
 - h. Minor children who are seventeen (17) years of age or under of a person in a relationship that is described in paragraphs a. through g. can be included as victims.
 - i. Minor children who are seventeen (17) years of age or under of a person in a relationship that is described in paragraphs a. through g. can be included in the list of perpetrators.
- (3) *Program of intervention for perpetrators* means a specialized program that accepts perpetrators of domestic or family violence into batterer intervention programs that are members of the association of batterer intervention programs to satisfy court orders, and offer them classes or instruction.
- (4) *Program for victims of domestic or family violence* means a specialized program for victims of domestic or family violence and their children that provides advocacy, shelter, crisis intervention, social services, treatment, counseling, education, or training.
- (5) *Safety plan* means a written or oral outline of actions to be taken by a victim of domestic or family violence to secure protection and support after making an assessment of the dangerousness of the situation.
- (c) *Definitions, adult abuse.* As used in this section, the definitions of abuse as found in RSMo § 455.010 (as amended from time to time), shall apply unless the context clearly indicates otherwise:
- (1) *Abuse* includes but is not limited to the occurrence of any of the following acts, attempts, or threats against a person who may be protected under a valid protective order issued by the State of Missouri or any other state within the United States.
 - (2) *Assault* means purposely or knowingly placing or attempting to place another in fear of physical harm.
 - (3) *Battery* means purposely or knowingly causing physical harm to another with or without a deadly weapon.
 - (4) *Coercion* means compelling another by force or threat of force to engage in conduct from which the latter has a right to abstain or to abstain from conduct in which the person has a right to engage.
 - (5) *Harassment* means engaging in a purposeful or knowingly course of conduct involving more than one (1) incident that alarms or causes distress to another person and serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress and must actually cause substantial emotional distress to the petitioner. Such conduct might include, but is not limited to:
 - a. Following another about in a public place or places;
 - b. Peering in the window or lingering outside the residence of another; but does not include constitutionally protected activity.
 - (6) *Sexual assault.* Causing or attempting to cause another to engage involuntarily in any sexual act by force, threat of force, or duress.
 - (7) *Unlawful imprisonment* means holding, confining, detaining or abducting another person against that person's will.
 - (8) *Adult* means any person eighteen (18) years of age or older or otherwise emancipated.
 - (9) *Court* means a court of competent jurisdiction.
 - (10) *Ex parte order of protection* means an order of protection issued by a court before the respondent has received notice of the petition or an opportunity to be heard on it.

- (11) *Family or household member* means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together or have resided together in the past, a person who is or has been in a continuing social relationship of a romantic nature with the victim, and persons who have a child in common regardless of whether they have been married or have resided together at any time.
 - (12) *Full order of protection* means an order of protection issued after a hearing on the record where the respondent has received notice of the proceedings and has had an opportunity to be heard.
 - (13) *Order of protection* means either an ex parte order of protection or a full order of protection.
 - (14) *Petitioner* means a family or household member or a person who has been the victim of domestic violence who has filed a verified petition under the provisions of RSMo § 455.020 (as amended).
 - (15) *Respondent* means the family or household member or person alleged to have committed an act of domestic violence, against whom a verified petition has been filed.
 - (16) *Stalking* means when a person purposely and repeatedly harasses or follows with the intent of harassing another person. As used in this subdivision, "*harass*" means to engage in a course of conduct directed at a specific person that serves no legitimate purpose, that would cause a reasonable person to suffer substantial emotional distress. As used in this subdivision "*course of conduct*" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."
- (d) *Definitions, child protection orders.* As used in this section, the following definitions as found in RSMo § 455.501 shall apply, unless the context clearly indicates otherwise:
- (1) *Abuse* means any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by an adult household member, or stalking of a child. Discipline including spanking, administered in a reasonable manner shall not be construed to be abuse.
 - (2) *Adult household member* means any person eighteen (18) years of age or older or an emancipated child who resides with the child in the same dwelling unit.
 - (3) *Child* means any person under eighteen (18) years of age.
 - (4) *Court* means a court of competent jurisdiction.
 - (5) *Ex parte order of protection* means an order of protection issued by the court before the respondent has received notice of the petition or an opportunity to be heard on it.
 - (6) *Full order of protection* means an order of protection issued after a hearing on the record where the respondent has received notice of the proceedings and has had an opportunity to be heard.
 - (7) *Order of protection* means either an ex parte order of protection or a full order of protection.
 - (8) *Petitioner* means a person authorized to file a verified petition under the provisions of RSMo §§ 455.503 and 455.505.
 - (9) *Respondent* means the adult household member, emancipated child or person stalking the child against whom a verified petition has been filed.
 - (10) *Stalking* means purposely and repeatedly harassing or following with the intent of harassing a child. As used in this subdivision, "*harassing*" means engaging in a course of conduct directed at a specific child that serves no legitimate purpose, that would cause a reasonable adult to believe the child would suffer substantial emotional distress. As used in this subdivision, "*course of*

conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "*course of conduct*".

- (11) *Victim* means a child who is alleged to have been abused by an adult household member.
- (e) *Offenses involving domestic or family violence defined.* An "*offense involving domestic or family violence*" occurs when a family or household member as defined in this section commits one (1) or more of the following crimes as listed under this chapter against another family or household member:
- (1) Domestic assault;
 - (2) Domestic destruction, damage, vandalism of property;
 - (3) Domestic petty larceny;
 - (4) Domestic possession on of stolen property;
 - (5) Domestic peace disturbance;
 - (6) Domestic stalking;
 - (7) Domestic trespass;
 - (8) Domestic harassment;
 - (9) Domestic tampering;
 - (10) Violation of orders of protection.
- (f) *Prohibited conduct with regard to ex parte or full orders of protection.* Violation of the terms and conditions, with regard to abuse, stalking, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit, of an ex parte order of protection of which the respondent has notice is hereby prohibited. Violation of the terms and conditions, with regard to abuse, stalking, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit, of a full order of protection is hereby prohibited. Violation of the terms and conditions of an ex parte order of protection for a child with regard to abuse, child custody, or entrance upon the premises of the victim's dwelling unit, of which the respondent has notice, is hereby prohibited. Violation of the terms and conditions of a full order of protection for a child regarding abuse, child custody or entrance upon the premises of the petitioner's dwelling unit, is hereby prohibited.
- (g) *Violation of ex parte or full orders of protection and arrest therefor.*
- (1) When a law enforcement officer has probable cause to believe a party has committed a violation of law amounting to an offense involving domestic violence; as defined in these ordinances, against a family or household member, the officer may arrest the offending party whether or not the violation occurred in the presence of the arresting officer. Any report of similar conduct which did not result in arrest within the preceding twelve-hour period may be considered as evidence of the defendant's intent in the violation for which arrest occurred. The refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this subsection.
 - (2) When a law enforcement officer has probable cause to believe that a party, against whom a protective order has been entered and who has notice of such order being entered, has committed an act of abuse in violation of such order, the officer may arrest the offending party-respondent whether or not the violation occurred in the presence of the arresting officer. Refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this subsection.
 - (3)

When an officer makes an arrest he is not required to arrest two (2) parties involved in an assault when both parties claim to have been assaulted. The arresting officer may attempt to identify and may arrest the party he believes is the primary physical aggressor. The term "*primary physical aggressor*" is defined as the most significant, rather than the first, aggressor. The law enforcement officer may consider any or all of the following in determining the primary physical aggressor:

- a. The intent of the law to protect victims of domestic violence from continuing abuse;
 - b. The comparative extent of injuries inflicted or serious threats creating fear of physical injury or harm;
 - c. The history of domestic violence between the persons involved. No law enforcement officer investigating an incident of domestic violence shall threaten the arrest of all parties for the purpose of discouraging requests of law enforcement intervention by any party. Where complaints are received from two (2) or more opposing parties, the officer shall evaluate each complaint separately to determine whether he should apply for issuance of charges. No law enforcement officer should base the decision to arrest or not to arrest on the specific request or consent of the victim or the officer's perception of the willingness of a victim or of a witness to the domestic or family violence to testify or otherwise participate in a judicial proceeding.
- (4) In an arrest in which a law enforcement officer acted in good faith reliance on this section, the arresting and assisting law enforcement officers and their employing entities and superiors shall be immune from liability in any civil action alleging false arrest, false imprisonment or malicious prosecution.
 - (5) When a person against whom an order of protection has been entered fails to surrender custody of minor children to the person to whom custody was awarded in an order of protection, the law enforcement officer may arrest the respondent and turn the minor children over to the care and custody of the party to whom such care and custody was awarded.
 - (6) The same procedures, including those designed to protect constitutional rights, shall be applied to the respondent as those applied to any individual detained in police custody.
 - (7) Violation of the terms and conditions with regard to abuse, stalking, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit, of an ex parte order of protection of which the respondent has notice or of a full order of protection is hereby prohibited.
 - (8) Good faith attempts to effect a reconciliation of a marriage shall not be deemed tampering with a witness or victim tampering.
 - (9) Nothing in this section shall be interpreted as creating a private cause of action for damages to enforce the provisions set forth herein.
- (h) *Domestic assault.* No person shall commit an act of domestic assault. A person commits such an act if he does any of the following:
- (1) The person attempts to cause or recklessly causes physical injury to a family or household member; or
 - (2) With criminal negligence the person causes physical injury to a family or household member by means of a deadly weapon or dangerous instrument; or
 - (3) The person purposely places a family or household member in apprehension of immediate physical injury by any means; or

- (4) The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to a family or household member; or
- (5) The person knowingly causes physical contact with a family or household member knowing the other person will regard the contact as offensive; or the person knowingly attempts to cause or causes the isolation of a family or household member by unreasonably and substantially restricting or limiting such family or household member's access to other persons, telecommunication devices or transportation for the purpose of isolation.
- (i) *Domestic destruction, damage, vandalism of property.* A person shall not willfully destroy, damage or injure any property of a family or household member of any kind whatsoever which does not belong to the said person.
- (j) *Domestic petty larceny.* No person shall steal, take, or carry away any article of value, which is the property of a family or household member.
- (k) *Domestic unlawful possession—Buying, receiving or possessing personal property which has been unlawfully taken from another.*
 - (1) No person shall buy or in any way receive or possess any personal property which has been unlawfully taken from a family or household member.
 - (2) Proof that any personal property has been unlawfully taken from the possession or control of a family or household member and that within six (6) months after said unlawful taking said property has been in the possession or under the control of the accused shall be deemed sufficient evidence to authorize conviction unless possession of said property is satisfactorily explained by proof that either:
 - a. Before buying or receiving or coming into possession of said property, a diligent and good faith inquiry was made as to the source of said property sufficient to provide a reasonable belief that said property had not been taken unlawfully from another; or
 - b. The property was acquired at a price and under circumstances sufficient to provide a reasonable belief that said property had not been taken unlawfully from another; or
 - c. The accused complied with RSMo § 447.010 relating to the duty of persons finding lost property.
- (l) *Domestic disturbance of the peace.* It shall be unlawful to unreasonably and knowingly disturb or alarm any family or household member by: threatening or offensive language addressed in a face-to-face manner to that individual and uttered under circumstances which are likely to produce an immediate violent response from a reasonable recipient; or by physically threatening or challenging or fighting that person.
- (m) *Domestic disturbance of the peace—Loud noise.*
 - (1) It shall be unlawful to play any radio, music player such as a "boom box," tape cassette, disc player, television, audio system or musical instrument in a manner or at a volume that disturbs the peace of any other reasonable family or household member; except, however, that nothing herein shall be construed to prohibit an otherwise lawful public concert or public performance.
 - (2) It shall be unlawful to speak, shout, sing or create any noise at a volume that disturbs the peace of any other reasonable family or household member, except that nothing herein shall be construed to prohibit the summoning of assistance in an emergency.
 - (3)

For the purpose of prosecution under this section, it shall be presumed that any speech, song or noise, or the playing of any radio, music player such as a "boom box," tape cassette, disc player, television, audio system or musical instrument, is disturbing to the peace of another reasonable family or household member if the volume is such that it is plainly audible to persons more than fifty (50) feet away from the source of the noise.

(n) *Domestic trespassing.*

- (1) No person without lawful authority, or without the expressed or implied consent of the family or household member or his agent, shall enter any building or enter on any enclosed or improved real estate, lot or parcel of ground; or being upon the land of another, shall fail or refuse to leave the same when requested so to do by the family or household member lawfully in possession thereof, his agent or representative.
- (2) For the purpose of this section, "*implied consent*," as it relates to persons making deliveries on private property, extends only to sidewalks or other identifiable walkways, where available, and does not extend to lawns or other private property if such a sidewalk is available.

(o) *Domestic harassment.* No person shall, for the purpose of frightening or disturbing another family or household member:

- (1) Communicate in writing or by telephone a threat to commit any felony or act of violence; or
- (2) Make a telephone call or communicate in writing and use coarse language offensive to one of average sensibility; or
- (3) Make a telephone call anonymously; or
- (4) Make repeated telephone calls to the same person or telephone number.

(p) *Domestic stalking.*

- (1) As used in this section, the following terms shall mean:
 - a. *Course of conduct.* A pattern of conduct composed of a series of acts over a period of time; however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct." Such constitutionally protected activity includes picketing or other organized protests.
 - b. *Credible threat.* A threat made with the intent to cause the person who is the target of the threat to reasonably fear for his or her safety. The threat must be against the life of, or a threat to cause physical injury to, a person.
 - c. *Harasses.* To engage in a course of conduct directed at a specific person that serves no legitimate purpose, that would cause a reasonable person to suffer substantial emotional distress, and that actually causes substantial emotional distress to that person.
- (2) Any person who purposely and repeatedly harasses or follows with the intent of harassing another family or household member or harasses another family or household member, and makes a credible threat with the intent to place that person in reasonable fear of death or serious physical injury commits the violation of stalking which is hereby prohibited.

(q) *Domestic tampering with a witness—Domestic tampering with a victim.*

- (1) A person commits the violation of domestic tampering with a witness if, with purpose to induce a witness who is a family or household member or a prospective witness who is a family or household member in an official proceeding to disobey a subpoena or other legal process, or to absent himself or avoid subpoena or other legal process, or to withhold evidence, information or documents, or to testify falsely, he:

- a. Threatens or causes harm to any person or property; or
 - b. Uses force, threats or deception; or
 - c. Offers, confers or agrees to confer any benefit, direct or indirect, upon such witness; or
 - d. Conveys any of the foregoing to another in furtherance of a conspiracy.
- (2) A person commits the violation of *"domestic victim tampering"* if, with purpose to do so, he prevents or dissuades or attempts to prevent or dissuade any person who is a family or household member who has been a victim of any ordinance violation or a person who is acting on behalf of any such victim from:
- a. Making any report of such victimization to any peace officer, or state, local or federal law enforcement officer or prosecuting agency or to any judge;
 - b. Causing a complaint, indictment or information to be sought and prosecuted or assisting in the prosecution thereof;
 - c. Arresting or causing or seeking the arrest of any person in connection with such victimization.
- (r) *Authority of law enforcement officer to seize weapons.* Incident to an arrest for a crime involving domestic or family violence, a law enforcement officer:
- (1) May seize all weapons that are alleged to have been involved or threatened to be used in the commission of a crime.
 - (2) May seize a weapon that is in plain view of the officer or was discovered pursuant to a consensual search, as necessary for the protection of the officer or other persons.
- (s) *Advocate-victim privilege applicable in cases involving domestic or family violence.*
- (1) Except as otherwise provided in subsection (2) below, a victim of domestic or family violence may refuse to disclose, and may prevent an advocate from disclosing, confidential oral communication between the victim and the advocate and written records and reports concerning the victim if the privilege is claimed by:
 - a. The victim; or
 - b. The person who was the advocate at the time of the confidential communication, except that the advocate may not claim the privilege if there is no victim in existence or if the privilege has been waived by the victim.
 - (2) The privilege does not relieve a person from any duty imposed pursuant to state laws on child abuse or neglect. A person may not claim the privilege when providing evidence in proceedings concerning child abuse or neglect pursuant to state law.
 - (3) As used in this subsection, *"advocate"* means an employee of or volunteer for a program for victims of domestic or family violence who:
 - a. Has a primary function of rendering advice, counseling, or assistance to victims of domestic or family violence; supervising the employees or volunteers of the program; or administering the program;
 - b. Works under the direction of a supervisor of the program, supervises employees or volunteers, or administers the program.
- (t) *Conditions of probation for perpetrator convicted of crime involving domestic or family violence; required reports by probation department.*
- (1)

Before placing a perpetrator who is convicted of a crime involving domestic or family violence on probation, the court shall consider the safety and protection of the victim of domestic or family violence and any member of the victim's family or household.

- (2) The court may condition the suspension of sentence or granting of probation to a perpetrator on compliance with one or more orders of the court, including but not limited to:
 - a. Enjoining the perpetrator from threatening to commit or committing acts of domestic or family violence against the victim or other family or household member.
 - b. Prohibiting the perpetrator from harassing, annoying, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly.
 - c. Requiring the perpetrator to stay away from the residence, school, place of employment, or a specified place frequented regularly by the victim and any designated family or household member.
 - d. Prohibiting the perpetrator from possessing or consuming alcohol or controlled substances.
 - e. Prohibiting the perpetrator from using or possessing a firearm or other specified weapon.
 - f. Directing the perpetrator to surrender any weapons owned or possessed by the perpetrator.
 - g. Directing the perpetrator to participate in and complete, to the satisfaction of the court, a program of intervention for perpetrators, treatment for alcohol or substance abuse, or psychiatric or psychological treatment; and/or an evaluation for such intervention or treatment.
 - h. Directing the perpetrator to pay restitution to the victim.
 - i. Imposing any other condition necessary to protect the victim of domestic or family violence and any other designated family or household member or to rehabilitate the perpetrator.
- (3) The perpetrator shall pay the costs of any condition of probation.
- (4) The court may establish policies and procedures for responding to reports of nonattendance or noncompliance by a perpetrator with the conditions of probation imposed pursuant to subsection (2), including by way of compliance reviews and these violations may serve as a basis for revoking probation.
- (5) The probation department shall immediately report to the court and the victim any assault by the perpetrator, the perpetrator's failure to comply with any condition imposed by the court or probation department, and any threat of harm made by the perpetrator.
- (6) The probation department shall establish policies and procedures:
 - a. For the exchange of information concerning the perpetrator with the court and the victim; and
 - b. For responding to reports of nonattendance or noncompliance by the perpetrator with conditions imposed pursuant to subsection (2).

(Ord. No. 2005-3235, § 1, 3-22-05)

Sec. 29-40. - Stalking, harassment and cyber-harassment.

(a) *Definitions.* Unless the context otherwise requires, the following terms shall have the meanings set out herein:

- (1) *Course of conduct:* A pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct". Such constitutionally protected activity

includes picketing or other organized protests.

- (2) *Electronic communication*: The origination, emission, dissemination, transmission, or reception of data, images, signals, sounds, or other intelligence or equivalence of intelligence of any nature over any communications system by any method, including, but not limited to, a fiber optic, electronic, magnetic, optical, digital, or analog method. By way of example, "electronic communication" includes, but is not limited to:
 - a. Electronic mail;
 - b. Internet-based communications;
 - c. Pager service; and
 - d. Electronic text messaging.
 - (3) *Electronic communications device*: Any instrument, equipment, machine, or other device that facilitates telecommunication, including, but not limited to, a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.
 - (4) *Harass*: To engage in a course of conduct directed at a specific person that serves no legitimate purpose, that:
 - a. Would cause a reasonable person to suffer substantial emotional distress, and that actually causes substantial emotional distress to that person; or
 - b. If the course of conduct is engaged in by a person eighteen (18) years of age or older with respect to a person under the age of eighteen (18), would cause a prudent parent or guardian to reasonably observe, or reasonably fear, substantial emotional distress on the part of the minor who is the target of such conduct.
 - (5) *Stalking*: When a person purposely and repeatedly harasses or follows with the intent of harassing another person.
- (b) *Construction*. For the purposes of this section, an offense alleged to have been committed by means of writing, by telephone, or by an electronic communications device may be deemed to have been committed either at the place from which the communication was made or at the place from which the communication was received.
- (c) *Stalking prohibited*. It shall be unlawful for any person to purposely and repeatedly harass or follow, with the intent of harassing, another person.
- The offense of stalking shall be a misdemeanor and shall be punishable as provided in section 29-2 of this Code.
- (d) *Harassment prohibited*. It shall be unlawful for any person, if for the purpose of frightening or disturbing another person, to:
- (1) Communicate in person, or in writing, or by telephone or by means of any electronic communications device a threat to commit any felony;
 - (2) Make a telephone call, communicate in writing or by means of any electronic communications device and use coarse language offensive to one of average sensibility;
 - (3) Make a telephone call anonymously;
 - (4) Communicate by means of any electronic communications device or through the internet using a false identification; or

(5) Make repeated telephone calls.

The offense of harassment shall be a misdemeanor and shall be punishable as provided in section 29-2 of this Code.

(e) *Cyber-harassment prohibited.* It shall be unlawful for any person, if with intent to harass, alarm, annoy, abuse, threaten, intimidate, torment or embarrass any other person, to:

- (1) Transmit or cause the transmission of an electronic communication, or knowingly permit an electronic communication to be transmitted from an electronic communication device under his or her control, to such other person:
 - a. Using any lewd, lascivious, indecent or obscene words, images or language, or suggesting the commission of any lewd or lascivious act;
 - b. Anonymously or repeatedly whether or not conversation occurs; or
 - c. Threatening to inflict injury on the person or property of the person communicated with or any member of his or her family or household; or
- (2) Transmit or cause the transmission of an electronic communication, or knowingly permit an electronic communication to be transmitted from an electronic communications device under his or her control, to a third party for the purpose of instigating, initiating, prompting or otherwise bringing about or causing such third party to harass, alarm, annoy, abuse, threaten, intimidate, torment or embarrass such other person.

The offense of cyber-harassment shall be a misdemeanor and shall be punishable as provided in section 29-2 of this Code.

(Ord. No. 2008-3333, § 1, 1-22-08)

Secs. 29-41—29-50. - Reserved.

ARTICLE IV. - OFFENSES AGAINST PROPERTY^[4]

Footnotes:

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State Law reference— *Robbery, arson, burglary and related offenses, RSMo Ch. 569; stealing and related offenses, RSMo Ch. 570.*

Sec. 29-51. - Definitions.

The following words, terms and phrases, when used in sections 29-52 to 29-59, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Appropriate shall mean to take, obtain, use, transfer, conceal or retain possession of.

Coercion shall mean a threat, however communicated to:

- (1) Commit any crime;
- (2) Inflict physical injury in the future on the person threatened or another;
- (3) Accuse any person of any crime;
- (4) Expose any person to hatred, contempt or ridicule;
- (5) Harm the credit or business repute of any person;
- (6)

Take or withhold action as a public servant, or to cause a public servant to take or withhold action;

- (7) Inflict any other harm which would not benefit the actor. A threat of accusation, lawsuit or other invocation of official action is not coercion if the property sought to be obtained by virtue of the threat was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat.

Deceit shall mean purposely making a representation which is false and which the actor does not believe to be true and upon which the victim relies, as to a matter of fact, law, value, intention or other state of mind. The term "deceit" does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. Deception as to the actor's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

Deprive shall mean:

- (1) To withhold property from the owner permanently;
- (2) To restore property only upon payment of reward or other compensation;
- (3) To use or dispose of property in a manner that makes recovery of the property by the owner unlikely.

Of another shall refer to property or services of any person other than the actor, who has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

Property shall mean anything of value, whether real or personal, tangible or intangible, in possession or in action, and shall include but not be limited to the evidence of a debt actually executed but not delivered or issued as a valid instrument.

Services shall mean and include transportation, telephone, electricity, gas, water, cable television services, or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and use of vehicles.

State Law reference— Similar provisions, RSMo 570.010(2), (3), (7), (9), (10), (12).

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 29-52. - Stealing.

- (a) A person commits the offense of stealing if he appropriates property or services of another with the purpose to deprive him thereof, either without his consent or by means of deceit or coercion.
- (b) Evidence of the following is admissible in any prosecution under this section on the issue of the requisite knowledge or belief of the alleged stealer:
 - (1) That he failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;
 - (2)

That he gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

- (3) That he left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;
- (4) That he surreptitiously removed or attempted to remove his baggage from a hotel, inn or boardinghouse.

(Code 1973, §§ 51.16, 51.22(2), (5))

State Law reference— Similar provisions, RSMo 570.030(1), (2).

Sec. 29-53. - Lost property.

- (a) A person who appropriates lost property shall not be deemed to have stolen that property within the meaning of section 29-52, unless the property is found under circumstances which gave the finder knowledge of or means of inquiry as to the true owner.
- (b) The defendant shall have the burden of injecting the issue of lost property.

State Law reference— Similar provisions, RSMo 570.060.

Sec. 29-54. - Claim of right to allegedly stolen property.

- (a) A person does not commit an offense under section 29-52 if, at the time of the appropriation, he:
 - (1) Acted in the honest belief that he had the right to do so;
 - (2) Acted in the honest belief that the owner, if present, would have consented to the appropriation.
- (b) The defendant shall have the burden of injecting the issue of claim of right.

State Law reference— Similar provisions, RSMo 570.070.

Sec. 29-55. - Receiving stolen property.

- (a) A person commits the offense of receiving stolen property if for the purpose of depriving the owner of a lawful interest therein, he receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen.
- (b) Evidence of the following is admissible in any criminal prosecution under this section to prove the requisite knowledge or belief of the alleged receiver:
 - (1) That he was found in possession or control of other property stolen on separate occasions from two (2) or more persons;
 - (2) That he received other stolen property in another transaction within the year preceding the transaction charged;
 - (3) That he acquired the stolen property for a consideration which he knew was far below its reasonable value.

(Code 1973, §§ 51.11(10), 51.44)

State Law reference— Similar provisions, RSMo 570.080(1), (2).

Sec. 29-56. - Passing bad checks.

- (a) A person commits the offense of passing a bad check when, with purpose to defraud, he issues or passes a check or other similar sight order for an amount less than one hundred fifty dollars (\$150.00) for the payment of money, knowing that it will not be paid by the drawee, or that there is no such drawee.
- (b)

If the issuer had no account with the drawee or if there was no such drawee at the time the check or order was issued, this fact shall be prima facie evidence of his purpose to defraud and of his knowledge that the check or order would not be paid.

- (c) If the issuer has an account with the drawee, failure to pay the check or order within ten (10) days after notice in writing that it has not been honored because of insufficient funds or credit with the drawee is prima facie evidence of his purpose to defraud and of his knowledge that the check or order would not be paid.
- (d) Notice in writing means notice deposited as first class mail in the United States mail and addressed to the issuer at his address as it appears on the dishonored check or to his last known address.

(Code 1973, § 51.17)

State Law reference— Similar provisions, RSMo 570.120(1)—(4).

Sec. 29-57. - Fraudulent use of a credit device.

A person commits the offense of fraudulent use of a credit device if he uses a credit device for the purpose of obtaining services or property, knowing that:

- (1) The device is stolen, fictitious or forged;
- (2) The device has been revoked or canceled;
- (3) For any other reason his use of the device is unauthorized.

(Code 1973, §§ 51.17, 51.22)

State Law reference— Similar provisions, RSMo 570.130(1).

Sec. 29-58. - Deceptive business practice.

A person commits the offense of deceptive business practice if in the course of engaging in a business, occupation or profession, he recklessly:

- (1) Uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity;
- (2) Sells, offers or exposes for sale, or delivers less than the represented quantity of any commodity or service;
- (3) Takes or attempts to take more than the represented quantity of any commodity or service when as buyer he furnishes the weight or measure;
- (4) Sells, offers or exposes for sale adulterated or mislabeled commodities;
- (5) Makes a false or misleading written statement for the purpose of obtaining property or credit.

(Code 1973, § 51.17)

State Law reference— Similar provisions, RSMo 570.140(1).

Sec. 29-59. - Defrauding secured creditors.

A person commits the offense of defrauding secured creditors if he destroys, removes, conceals, encumbers, transfers or otherwise deals with property subject to a security interest with purpose to defraud the holder of the security interest.

(Code 1973, § 51.17)

State Law reference— Similar provisions, RSMo 570.180(1).

Sec. 29-60. - Tampering.

(a) A person commits the offense of tampering if he:

- (1) Tamper with property of another for the purpose of causing substantial inconvenience to that person or to another;
- (2) Unlawfully rides in or upon another's automobile, airplane, motorcycle, motorboat or other motor-propelled vehicle; or
- (3) Tamper with, or causes to be tampered with, any meter or other property of an electric, gas, steam or water utility, the effect of which tampering is either:
 - a. To prevent the proper measuring of electric, gas, steam or water service;
 - b. To permit the diversion of any electric, gas, steam or water service.

(b) In any prosecution under subsection (a)(3), proof that a meter or any other property of a utility has been tampered with, and that the person accused received the use or direct benefit of the electric, gas, steam or water service, with one or more of the effects described in subsection (a)(3), shall be sufficient to support an inference which the trial court may submit to the trier of fact, from which the trier of fact may conclude that there has been a violation of the subsection by the person who uses or receives the direct benefit of the electric, gas, steam or water service.

(Code 1973, §§ 42.54, 51.22(4), 51.43)

State Law reference— Similar provisions, RSMo 569.090(1), (2).

Sec. 29-61. - Property damage.

(a) A person commits the offense of property damage if he:

- (1) Knowingly damages property of another; or
- (2) Damages property for the purpose of defrauding an insurer.

(b) In addition to the penalty provided, if the property involved is owned by or under the management or control of the city, any person convicted of a violation of this section shall pay to the city the cost of repairing or replacing such property.

(Code 1973, §§ 26A.10, 26A.12, 51.05, 51.15, 51.22(2), 51.41(j), (n), 51.42.7)

State Law reference— Property damage, RSMo 569.100, 569.120.

Sec. 29-62. - Claim of right to allegedly tampered, damaged property.

(a) A person does not commit an offense by damaging, tampering with, operating, riding in or upon, making connection with or damaging property of another if he does so under a claim of right and has reasonable grounds to believe he has such a right.

(b) The defendant shall have the burden of injecting the issue of claim of right.

State Law reference— Similar provisions, RSMo 569.130.

Sec. 29-63. - Trespass in the first degree.

(a) A person commits the offense of trespass in the first degree if he knowingly enters unlawfully or knowingly remains unlawfully in a building or inhabitable structure or upon real property.

(b) A person does not commit the crime of trespass in the first degree by entering or remaining upon real property unless the real property is fenced or otherwise enclosed in a manner designed to exclude intruders or as to which notice against trespass is given by:

- (1) Actual communication to the actor;
- (2) Posting in a manner reasonably likely to come to the attention of intruders.

(Code 1973, §§ 51.11(4), 51.22(1))

State Law reference— Similar provisions, RSMo 569.140(1), (2).

Sec. 29-64. - Trespass in the second degree.

- (a) A person commits the offense of trespass in the second degree if he enters unlawfully upon real property of another.
- (b) This is an offense of absolute liability and is an infraction.
- (c) Any person guilty of committing the offense of trespass in the second degree shall be punished by a fine not exceeding two hundred dollars (\$200.00).

(Code 1973, § 51.22(1); Ord. No. 97-2933, § 1, 9-9-97)

State Law reference— Similar provisions, RSMo 569.150(1).

Sec. 29-65. - Littering.

(a) *Definitions:*

- (1) "*Litter*" means any organic or inorganic waste material, rubbish, refuse, garbage, trash, hulls, peelings, debris, grass, weeds, ashes, sand, gravel, slag, brickbats, metal, plastic and glass containers, broken glass, dead animals or intentionally or unintentionally discarded materials of every kind and description.
- (2) "*Property*" means public or private property.

(b) *It shall be unlawful to litter.* A person commits the crime of littering if he dumps, deposits, throws, leaves, causes or permits the dumping, depositing, placing, throwing or leaving of litter, or allows unsecured materials to drop or shift off of vehicle loads, onto any property in this city or any waters in this city unless:

- (1) The property is designated by the state or by any of its agencies or political subdivisions for the disposal of such litter, and such person is authorized by the proper public authority to use such property; and
- (2) The litter is placed into a receptacle or container installed on such property; or
- (3) The person is the owner of such property, has obtained consent of the owner, or is acting under the personal direction of the owner, all in a manner consistent with the public welfare.

(c) *Evidence of littering:*

- (1) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, boat, airplane, or other conveyance in violation of this section, it shall be prima facie evidence that the operator of the conveyance has violated this section.
- (2) Except as provided in subsection (c)(1) above, whenever any litter which is dumped, deposited, thrown or left on property in violation of this section is discovered to contain any article, including but not limited to letters, bills, publications or other writing which display the name of the person thereon in such a manner to indicate that the article belongs or belonged to such person, it shall be a rebuttable presumption that such person has violated this section.

(d) *Penalties:*

- (1) In addition to the penalties set out in the general penalty section of the City Code, the court may:
 - a.

Order the violator to reimburse the city for the reasonable cost of removing the litter when the litter is or is ordered removed by the city; and/or

- b. Order the violator to pick up and remove any and all litter from any public property, private right-of-way for a distance not to exceed one (1) mile, or, with prior permission of the legal owner or tenant in lawful possession of private property, any such private property upon which it can be established by competent evidence that he has deposited litter, including any litter he has deposited and any litter deposited thereon by anyone else prior to the date of execution of sentence.

(Code 1973, §§ 10.07, 51.22(3); Ord. No. 92-2536, § 1, 6-9-92; Ord. No. 2005-3252, § 3, 10-11-05)

Cross reference— Health, Ch. 19; nuisances, Ch. 28; parks and recreation generally, Ch. 30; littering in public parks, § 30-65(2); solid waste, Ch. 37; streets, sidewalks and other public places, Ch. 40.

State Law reference— Similar provisions, RSMo 577.070(1).

Sec. 29-66. - Theft of copper, wire or other metal.

(a) It shall be unlawful to:

- (1) Tamper with property for the purpose of disconnecting or retrieving any copper, brass, bronze, aluminum or other metal pipe, wire, bar, fitting or other component within such property; or
- (2) Appropriate any copper, brass, bronze, aluminum or other metal pipe, wire, bar, fitting or other component or thing belonging to another person with the purpose to deprive him thereof, either without his consent or by means of deceit or coercion.

(b) It shall also be unlawful to purchase any copper, brass, bronze, aluminum or other metal pipe, wire, bar, fitting or other component or thing unless such is purchased:

- (1) From a retailer, collector or dealer holding an appropriate business or governmental license which is applicable to such activity; or
- (2) From a contractor or company with whom the purchaser has an existing business relationship and reasonably knows that the scrap metal is derived from the business of such contractor or company.

(c) It shall be unlawful to sell any scrap or secondhand metal components or material if the seller should reasonably know that such scrap or secondhand metal components or material was previously stolen.

(d) It shall be unlawful to sell or deal in junk, scrap or secondhand metals unless a written or electronic record is made of the transaction in compliance with Article III of Chapter 25 of this Code.

(e) The minimum penalty for a violation of this section shall be a fine of one thousand dollars (\$1,000.00) and five (5) days in jail. The maximum penalty for a violation of this section shall be a fine of one thousand dollars (\$1,000.00) or ninety (90) days imprisonment or both such fine and imprisonment.

(f) In addition to the penalties set out in this section or the general penalty section of the City Code, the court may order a violator, including any violator involved in the theft or any violator receiving stolen property, to reimburse the affected property owner the reasonable cost of replacing the metal components and repairing any and all damage resulting from the removal of such metal components.

(Ord. No. 2008-3366, § 1, 8-26-08)

Sec. 29-67. - Theft of cable television, internet or telephone services.

(a) It shall be unlawful:

To obtain or attempt to obtain, by means of artifice, trick, deception or device, cable television, internet, or telephone services without payment of compensation for such services to the service provider; or

- (2) To connect to, tamper with or otherwise interfere with any cable, wire or other device used for the distribution of cable television, internet, or telephone services without the service provider's authorization; or
 - (3) To sell, use, manufacture, rent, distribute, display or otherwise offer for sale, rental or use any device, plan or kit designed and intended to obtain cable television, internet, or telephone services without the service provider's authorization or without payment for such services to the service provider.
- (b) In a prosecution of a violation of this section, if evidence is admitted concerning the existence on the person's property, or in the possession of the person, of any connection wire, device or conductor connected in such a manner as to permit the use of cable television, internet, or telephone services without payment to and specifically authorized by the service provider, there shall be a rebuttable presumption that the person has committed a violation of this section.
- (c) As used in this section, the following definitions shall apply:
- (1) "Cable television" shall mean video programming provided through wireline facilities whether provided as part of a tier, on demand, or a per-channel basis. This definition includes cable service as defined by 47 U.S.C. § 522(6), but does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d), or any video programming provided solely as part of and via a service that enables users to access content, information, electronic mail, or other services offered over the public Internet.
 - (2) "Service provider" shall mean any entity that distributes cable television, internet services or telephone services via a network and pursuant to an agreement between customer and the provider.

(Ord. No. 2013-3541, § 1, 12-10-13)

Secs. 29-68—29-80. - Reserved.

ARTICLE V. - OFFENSES AGAINST PUBLIC ORDER^[5]

Footnotes:

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State Law reference— *Offenses against public order, RSMo Ch. 574.*

Sec. 29-81. - Definitions.

- (a) The following words, terms and phrases, when used in sections 29-82 and 29-83, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
- (1) *Private property* shall mean any place which at the time is not open to the public. It includes property which is owned publicly or privately.
 - (2) *Property of another* shall mean any property in which the actor does not have a possessory interest.
 - (3) *Public place* shall mean any place which at the time is open to the public. It includes property which is owned publicly or privately.

(b) If a building or structure is divided into separately occupied units, such units are separate premises.
(Code 1973, §§ 51.08(5), (6), 51.41(a))

State Law reference— Similar provisions, RSMo 574.030.

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 29-82. - Peace disturbance.

A person commits the crime of peace disturbance if:

- (1) He unreasonably and knowingly disturbs or alarms another person or persons by:
 - a. Loud noise; or
 - b. Offensive language addressed in a face-to-face manner to a specific individual and uttered under circumstances which are likely to produce an immediate aggressive response from a reasonable recipient; or
 - c. Threatening to commit a criminal act against any person under circumstances which are likely to cause a reasonable person to fear that such threat may be carried out; or
 - d. Fighting; or
 - e. Creating a noxious and offensive odor;
- (2) He is in a public place or on private property of another without consent and purposely causes inconvenience to another person or persons by unreasonably and physically obstructing:
 - a. Vehicular or pedestrian traffic; or
 - b. The free ingress or egress to or from a public or private place.
- (3) He, voluntarily or by agreement, with another person, shall, in any public place, engage in any fight, use any blows or do violence toward each other in any angry or quarrelsome manner or do each other any willful mischief, or if any person shall assault another and strike him with any object, in any public place, to the disturbance of others.

(Code 1973, §§ 51.08(1), (2), (4), 51.41.1(a)—(d), (i), (k), (m); Ord. No. 92-2518, § 1, 1-28-92; Ord. No. 2007-3294, § 1, 1-9-07)

Sec. 29-83. - Private peace disturbance.

- (a) A person commits the crime of private peace disturbance if he is on private property and unreasonably and purposely causes alarm to another person or persons on the same premises by:
 - (1) Threatening to commit a crime against any person; or
 - (2) Fighting; or
 - (3) Loud noise; or
 - (4) Offensive language addressed in a face-to-face manner to a specific individual and uttered under circumstances which are likely to produce an immediate aggressive response from a reasonable recipient.
- (b) For purposes of this section, the following terms shall mean:
 - (1) "*Property of another*" means any property in which the actor does not have a possessory interest;
 - (2) "*Private property*" means any place which at the time is not open to the public. It includes property which is owned publicly or privately;
 - (3)

"Public place" means any place which at the time is open to the public. It includes property which is owned publicly or privately;

- (4) If a building or structure is divided into separately occupied units, such units are separate premises.

(Code 1973, §§ 51.08(1), (2), (4), 51.41.1(a)—(d), (i), (k), (m); Ord. No. 92-2519, § 1, 1-28-92; Ord. No. 2007-3294, § 2, 1-9-07)

State Law reference— Similar provisions, RSMo 574.020(1).

Sec. 29-84. - Disturbing lawful assemblies.

No person shall in this city, disturb any congregation or assembly met for religious worship, any school assembled for the purpose of instruction or any assemblage of persons met for literary, political or social purposes, by:

- (1) Loud noise;
- (2) Offensive or indecent conversation which is likely to produce immediate violent response from a reasonable recipient;
- (3) Threatening to commit a crime against any person;
- (4) Fighting.

(Code 1973, § 51.07)

Sec. 29-85. - Use of language to incite violence.

It shall be unlawful for any person to use speech or writing in such a way that has a direct tendency to incite immediate acts of violence by the person or group being addressed, on any street, alley, place or business, public building or other place in the city.

(Code 1973, §§ 51.41(c), 51.41.1(h))

Sec. 29-86. - Unlawful assembly.

A person commits the offense of unlawful assembly if he knowingly assembles with six (6) or more other persons and agrees therewith to violate any of the provisions of this chapter, criminal laws of this state or of the United States with force or violence.

(Code 1973, § 51.10)

State Law reference— Similar provisions, RSMo 574.040(1).

Sec. 29-87. - Rioting.

A person commits the offense of rioting if he knowingly assembles with six (6) or more other persons and agrees therewith to violate any of the provisions of this chapter, criminal laws of this state or of the United States with force or violence, and thereafter, while still so assembled, does violate any of these laws with force or violence.

(Code 1973, §§ 51.10, 51.41(b))

State Law reference— Similar provisions, RSMo 574.050.

Sec. 29-88. - Refusal to disperse.

A person commits the offense of refusal to disperse if being present at the scene of an unlawful assembly, or at the scene of a riot, he knowingly fails or refuses to obey the lawful command of a law enforcement officer to depart from the scene of the unlawful assembly or riot.

(Code 1973, §§ 51.36, 51.41.1(1))

State Law reference— Similar provisions, RSMo 574.060.

Sec. 29-89. - Loitering.

A person commits the offense of loitering if he obstructs or encumbers the passage of persons or vehicles upon, through or into any street, street corner, depot, building entrance or other public place and then refuses to move on when requested to do so by any police officer of the city.

(Code 1973, §§ 51.08(3), 51.11(2), 51.12, 51.41.1(e))

Sec. 29-90. - Begging.

A person commits the offense of begging if he:

- (1) Wanders abroad and begs;
- (2) Goes about from door to door of private homes or commercial and business establishments begging;
- (3) Places himself in or upon any public way or public place to beg or receive alms.

(Code 1973, § 51.11(5))

State Law reference— Feigning blindness for profit, RSMo 578.075.

Sec. 29-91. - Curfew for persons under eighteen.

- (a) *Generally.* No person under the age of eighteen (18) years shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places, between the hours of 11:00 p.m. and 6:00 a.m. of the following day Sundays through Thursdays, or between the hours of 12:00 midnight and 6:00 a.m. of the following day Fridays and Saturdays.
- (b) *Responsibility of parent.* The parent, guardian or other adult person having the care and custody of a person under the age of eighteen (18) years shall not knowingly permit such person to violate this section.
- (c) *Notice to parent.* Any police officer finding any person under the age of eighteen (18) years violating the provisions of this section shall warn such person to desist immediately from such violation and shall promptly report the violation to his superior officer, who shall cause a written notice to be served upon the parent, guardian or person in charge of such person, setting forth the manner in which this section has been violated. Any parent, guardian or person in charge of such person who shall knowingly permit such person to violate the provisions of this section, after receiving notice of the first violation, shall be guilty of an offense.
- (d) *Service of notice.* The written notice provided in subsection (c) may be served by leaving a copy thereof at the residence of such parent, guardian or person in charge of the person in violation of this section, with any person found at such residence over the age of eighteen (18) years, by mailing such notice to the last-known address of such parent, guardian or person in charge of such person, wherever such person may be found.

- (e) *Exceptions.* This section shall not apply to those persons detained while going to or coming from their place of employment, nor shall this section apply to any person under eighteen (18) years of age who is accompanied by his parent, guardian or other adult person having the care and custody of such person, or where such person is upon an emergency errand or legitimate business directed by his parent, guardian or other adult person having the care and custody of the minor.
- (f) *Penalty.* Any parent, guardian, or other adult person having the care and custody of a person under the age of eighteen (18) years who shall knowingly permit a child under the age of eighteen (18) years to violate the provisions of this section after receiving notice of the first violation, and, any child that is not subject to the juvenile code of the State of Missouri who violates this section, shall be subject to a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00). In lieu of a fine, the court may grant probation subject to a provision that such person perform voluntary community service for a period of time deemed appropriate by the court. Any child that is subject to the juvenile code who violates the provisions of this section shall be referred to the juvenile court for further proceedings.

(Code 1973, § 51.31; Ord. No. 93-2671, § 1, 9-28-93)

Cross reference— General curfew in times of civil emergencies, § 10-44.

Sec. 29-92. - Noises prohibited.

It shall be unlawful for any person to make any excessive, unnecessary or unusually loud noise or any noise which either damages, disturbs, injures or endangers the comfort, health, peace or safety of others within the City of Ferguson. The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section, but said enumeration shall not be deemed to be exclusive, namely:

- (1) a. No person shall play or operate any radio, music player such as a "boom box", tape cassette, disc player, television, audio system, musical instrument, or any other kind of sound device upon any public road, street, highway, or private property in this municipality in a manner or at a volume as to disturb the quiet, comfort, or repose of other persons.
- b. No person shall play or operate any radio, music player such as a "boom box", tape cassette, disc player, television, audio system, musical instrument, or any other type of sound device in a manner or at a volume as to disturb the quiet, comfort, or repose of neighboring inhabitants, or at a volume that is plainly audible to persons other than those who are in the room in which such device or instrument is played and who are voluntary listeners thereto.
- c. No person shall play any radio, music player such as a "boom box", audio system, or any other type of sound device in a motor vehicle at such volume as to disturb the quiet, comfort, or repose of other persons or at a volume which is plainly audible to persons other than the occupants of such vehicle.
- d. The operation of any such radio, music player such as a "boom box", tape cassette, disc player, television, audio system, musical instrument, or any other type of sound device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner to be plainly audible at a distance of fifty (50) feet from the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this section.

(2)

The using, operating or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loud speaker, sound amplifier, or other machine or device for the providing or reproducing of sound for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

- (3) Yelling, shouting, whistling or singing, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet or comfort of persons in any office, dwelling, hotel, residence or any other persons in the vicinity.
- (4) The erection (including excavation), demolition, alteration, construction or repair of any building, or the excavation of any streets and highways, between the hours of 6:00 p.m. and 7:00 a.m. Monday through Saturday, and on Sundays and legal holidays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building commissioner. If the building commissioner should determine that it would be in the interest of public health and safety to allow the erection, demolition, alteration or repair of any building or the excavation of streets or highways within the above prohibited hours, and if he shall further determine that loss or inconvenience would not result to any party in interest, he may grant permission for such work to be done within the above prohibited hours, upon application being made at the time the permit for the work is awarded or during the progress of the work.
- (5) The use of any automobile, motorcycle, or vehicle so out of repair as to create loud and unnecessary grating, scraping, grinding, rattling, or other noise.
- (6) (a) Definition.
 - 1. *Event* as defined hereto shall include parties or gatherings of people who have assembled or are assembling for a specific occasion or for a social activity.
 - 2. *Person responsible for the event* is the person in charge of the premises and/or the person who organized the event. If the person in charge of the event or who organized the event is a minor, then the parents or guardians of the minor shall be jointly and severally liable for the acts of the minor, and considered persons responsible.
- (b) A permit from the chief of police or his designee must be obtained for an outdoor event where the volume of any radio, music player, such as a boom box, tape cassette, disk player, television, audio system, musical instrument, or any other kind of sound device could exceed that established in this section.

The permit will only be issued if, in the opinion of the chief of police or his designee, the peace of the general public and/or residents of the area affected would not be unduly disturbed thereby.

Said permit shall be issued for only the hours between 10:00 a.m. and 11:00 p.m. In the event that the actual operation of the sound device or devices at the event for which the permit is issued unduly disturbs the general public and/or the residents of the area in which the event is taking place, the chief of police and/or his designee shall have the authority to order an immediate cessation or lowering of the volume of the sound device. The failure of the person responsible for the event to obey the instructions of the chief of police or his designee relating to the noise at the event shall be in violation of this section.

Sec. 29-93. - Residency and loitering limitations for sex offenders.

(a) For purposes of this section:

- (1) "Resides" means sleeps in a residence, which may include more than one (1) location and may be mobile or transitory.
 - (2) All distances referred to in this section shall be measured by the straight line distance from the property boundary line of the property or properties at issue.
- (b) (1) Any person who, since July 1, 1979, has been or hereafter has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the provisions of: (a) RSMo Ch. 566; or (b) the provisions of RSMo 568.020(2), incest; or (c) RSMo 568.045, endangering the welfare of a child in the first degree; or (d) RSMo 568.080(2), use of a child in a sexual performance; or (e) RSMo 568.090, promoting a sexual performance by a child; or (f) RSMo 573.023, sexual exploitation of a minor; or (g) RSMo 573.025, promoting child pornography in the first degree; or (h) RSMo 573.035, promoting child pornography in the second degree; or (i) RSMo 573.037, possession of child pornography; or (j) RSMo 573.040, furnishing pornographic material to minors; and
- (2) Any person required to register with the chief law enforcement official of the county in which such person resides pursuant to the provisions of RSMo 589.400 et seq., shall not reside within two thousand (2,000) feet of any public school as defined in RSMo 160.011, or any private school giving instruction in a grade or grades not higher than the twelfth grade, or public library, or public park, or pool open to the general public, or within two thousand (2,000) feet of any child-care facility as defined in RSMo 210.201, which is in existence at the time the individual begins to reside at the location.
- (c) If such person has already established a residence and a public school, a private school, a child-care facility, a public library, a public park, or a pool open to the general public is subsequently built or placed within the requisite distance of such person's residence, then such person shall, within one (1) week of the opening of such public school, private school, public library, public park, pool, or child-care facility, notify the chief of police that he or she is now residing within two thousand (2,000) feet of such public school, private school, public library, public park, or pool, or within two thousand (2,000) feet of such child-care facility and shall provide verifiable proof to the chief that he or she resided there prior to the opening of such public school, private school, public library, public park, pool, or child-care facility.
- (d) Any person who has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the provisions of RSMo Ch. 566, or the provisions of RSMo 568.020(2), incest; RSMo 568.045, endangering the welfare of a child in the first degree; RSMo 568.080(2), use of a child in a sexual performance; RSMo 568.090, promoting a sexual performance by a child; RSMo 573.023, sexual exploitation of a minor; RSMo 573.025, promoting child pornography; or RSMo 573.040, furnishing pornographic material to minors; shall not be present in or loiter within five hundred (500) feet of any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen (18) are present in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal guardian, or custodian of a student present in the building and has met the conditions set forth in subsection (e) of this section.
- (e)

No parent, legal guardian, or custodian who has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the offenses listed in subsection (d) of this section shall be present in any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen (18) are present in the building, on the grounds or in the conveyance unless the parent, legal guardian, or custodian has permission to be present from the superintendent or school board or in the case of a private school from the principal. In the case of a public school, if permission is granted, the superintendent or school board president must inform the principal of the school where the sex offender will be present. Permission may be granted by the superintendent, school board, or in the case of a private school from the principal for more than one (1) event at a time, such as a series of events, however, the parent, legal guardian, or custodian must obtain permission for any other event he or she wishes to attend for which he or she has not yet had permission granted.

- (f) Any person who has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the provisions of RSMo Ch. 566, or the provisions of RSMo 568.020(2), incest; RSMo 568.045, endangering the welfare of a child in the first degree; RSMo 568.080(2), use of a child in a sexual performance; RSMo 568.090, promoting a sexual performance by a child; RSMo 573.023, sexual exploitation of a minor; RSMo 573.025, promoting child pornography; or RSMo 573.040, furnishing pornographic material or minors; shall not (i) enter, be present in or loiter within five hundred (500) feet of any child-care facility, a public park, or a pool open to the general public; (ii) enter or be present in any area of a public library designated for children; or (iii) enter, be present in or loiter within five hundred (500) feet of any public library during restricted hours.
- (g) Any person violating any of the provisions of this section shall be punished as provided in section 1-15 of this Code of Ordinances.

(Ord. No. 2008-3353, § 1, 4-22-08; Ord. No. 2012-3510, § 1, 12-11-12)

Sec. 29-94. - Disorderly conduct.

Any person who shall do or engage in any of the following shall be guilty of the offense of disorderly conduct:

- (1) Any person who shall act in a violent or tumultuous manner toward another whereby any person is placed in danger of safety of his/her life, limb or health.
- (2) Any person who shall act in a violent or tumultuous manner toward another, whereby public property or property of any other person is placed in danger of being destroyed or damaged.
- (3) Any person who shall endanger lawful pursuits of another by acts of violence or threats of bodily harm.
- (4) Any person who shall cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another or public property.
- (5) Any person who shall assemble or congregate with another or others and cause, provoke or engage in any fight or brawl.
- (6) Any person who shall assemble in bodies or in crowds and engage in unlawful activities.
- (7) Any person who shall frequent any public place and obtain money from another by an illegal and fraudulent scheme, trick, artifice or device, or attempt to do so.
- (8)

Any person, while in a public place, who utters in a loud, abusive or threatening manner, any obscene words, epithets or similar abusive language. Words merely causing displeasure or annoyance are not prohibited.

- (9) Any person who shall use fight provoking words directed to another person.
- (10) Any person who shall assemble or congregate with another or others and do bodily harm to another.
- (11) Any person who shall congregate with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered to do so by a law enforcement officer or other person having authority.
- (12) Any person who damages, befouls or disturbs public property or the property of another so as to create a hazardous, unhealthy or physically offensive condition.
- (13) Any person who, either purposefully or while in an intoxicated or drugged condition, causes inconvenience to another person or persons in a public place or on private property of another without consent by unreasonably and physically obstructing vehicular or pedestrian traffic or the free ingress or egress to or from the public or private place.

(Ord. No. 2013-3524, § 1, 5-28-13)

Sec. 29-95. - Parental neglect.

- (a) *Truancy.* No parent, guardian, or other person in this city having charge, control or custody of a child from the ages of seven (7) to seventeen (17) years of age shall, without excuse or exemption, knowingly permit said child to absent her/himself from attendance at a public, private, parochial, parish or home school on such dates, and during such hours, as the school may be regularly in session.

Such parent, guardian, or other person shall be deemed to have knowledge of a child's unexcused absence from school after having received notification, as provided for in this subsection, of same from a police officer or school representative.

The written notice described in this subsection may be served by leaving a copy thereof at the residence of such parent, guardian or person in charge of the person in violation of this section with any person found at such residence over the age of seventeen (17) years or by mailing such notice to the last known address of such parent, guardian or person in charge of such person, wherever such person may be found.

- (b) *Parental neglect prohibited.* No parent shall knowingly permit, encourage, aid or cause a minor under the age of seventeen (17) years to commit a criminal act or engage in any conduct which could be injurious to the minor's morals or health. No parent shall fail to exercise customary and effective control over a minor so as to allow, contribute to, cause or tend to cause a minor to commit a criminal act.

In addition to any other penalty provided under this Code, the court may, as a condition of any probation granted to any parent found guilty of violating this section, order the defendant to make restitution to any person who has been damaged by the misconduct of the minor in any amount deemed reasonable by the court.

(Ord. No. 2013-3525, § 1, 5-28-13)

ARTICLE VI. - OFFENSES AGAINST PUBLIC SAFETY^[6]

Footnotes:

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Cross reference— *Alcoholic beverages generally, Ch. 4; driving while intoxicated, driving with excessive blood alcohol content, § 44-106 et seq.*

State Law reference— *Public safety offenses, RSMo Ch. 577.*

DIVISION 1. - GENERALLY

Sec. 29-106. - Restrictions on sale or use of fireworks.

- (a) No person shall within the city sell, offer for sale, expose for sale, use, discharge or explode any form of fireworks, except in strict conformance with the terms of Article 27 of the 1984 BOCA Basic/National Fire Prevention Code, adopted in section 17-56.
- (b) This section does not apply to the sale or use of fireworks for pyrotechnic displays given by any fair association, amusement park, the officials in charge of any public park, any civic or other public organization of group of individuals under a permit from the city; nor to the sale or use of blank cartridges for theatrical purposes, signal purposes in athletic contests or sport events, or to militia, police or military organizations, or to any resident wholesaler, dealer or jobber selling fireworks at wholesale, provided that the same are shipped or delivered directly outside of the city limits.
- (c) The fire official may issue permits for pyrotechnic displays to fair associations, amusement parks, or officials in charge of public parks and civic or public organizations, or groups of individuals, if he is satisfied that the public safety will not be endangered by such display, and that the provisions of Article 27 of the fire code have been met.

(Code 1973, § 51.04)

Cross reference— Fire prevention and protection, Ch. 17.

Sec. 29-107. - Cisterns, wells, excavations to be protected.

It shall be the duty of every owner or occupant of an unenclosed lot of ground in this city, having a cistern or well or both, or any other deep or dangerous excavation thereon, to cover or fence the same with a close, secure and substantial cover or fence and to keep and maintain the same so as to prevent persons or animals from falling therein.

(Code 1973, § 51.13)

Sec. 29-108. - Abandonment of dangerous containers.

- (a) A person commits the offense of abandonment of dangerous containers if he abandons, discards, or knowingly permits to remain on premises under his control, in a place accessible to children, any abandoned or discarded icebox, refrigerator, or other airtight or semiairtight container which has a capacity of one and one-half (1½) cubic feet or more and an opening of fifty (50) square inches or more and which has a door or lid equipped with a hinge, latch or other fastening device capable of securing the door or lid, without rendering the equipment harmless to human life by removing the hinges, latches or other hardware which may cause a person to be confined therein.
- (b) Subsection (a) does not apply to an icebox, refrigerator or other airtight or semiairtight container located in that part of a building occupied by a dealer, warehouseman or repairman.
- (c) The defendant shall have the burden of injecting the issue under subsection (b).

(Code 1973, § 51.14)

State Law reference— Similar provisions, RSMo 577.100(1)—(3).

Secs. 29-109—29-120. - Reserved.

DIVISION 2. - ABUSE OF ALCOHOL^[7]

Footnotes:

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Cross reference— *Alcoholic beverages, Ch. 4.*

Sec. 29-121. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Intoxicating liquor shall mean and include alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt or other liquors or combinations of liquors, a part of which is spirituous, vinous or fermented, and all preparations or mixtures for beverage purposes, containing in excess of three and two-tenths (3.2) percent of alcohol by weight.

Nonintoxicating beer shall be construed to refer to and to mean any beer manufactured from pure hops or pure extract of hops, and pure barley malt or other wholesome grains or cereals, and wholesome yeast, and pure water, and free from all harmful substances, preservatives and adulterants, and having an alcoholic content of more than one-half of one (1) percent by volume and not exceeding three and two-tenths (3.2) percent by weight.

State Law reference— Similar definitions, RSMo 311.020, 312.010(2).

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 29-122. - Drinking in public.

- (a) It shall be unlawful for any person to consume intoxicating liquor or nonintoxicating beer while upon any public street, sidewalk, alley, park or public building, or on or in any establishment, business or parking lot generally open to the public.
- (b) This section shall not apply to the consumption of any intoxicating liquor or nonintoxicating beer consumed inside any establishment licensed to sell intoxicating liquor or nonintoxicating beer by the drink, in a public park with a permit to drink intoxicating liquor or nonintoxicating beer in certain prescribed areas of the park, on a parking lot where a church picnic is held and a license to sell intoxicating liquor or nonintoxicating beer by the drink has been issued, at such approved activities as "block parties" or any designated public area for which the city has issued a permit authorizing the holder of a license to sell intoxicating liquor or nonintoxicating beer by the drink in such designated area. However no such consumption shall occur in a public area outside of the confines of the picnic area or block party area; or other designated area.
- (c) It shall be unlawful for any person, while upon any public street, sidewalk, alley, park, or public building, or in any establishment, business, or parking lot generally open to the public, to be in a drunken or intoxicated condition.

(Ord. No. 84-2042, § 1(51.26A), 9-11-84; Ord. No. 95-2786, § 1, 8-22-95)

State Law reference— Drunkenness or drinking in certain places prohibited, RSMo 574.075.

Sec. 29-123. - No drinking signs.

No intoxicating liquor or nonintoxicating beer shall be drunk, consumed or publicly exhibited in a public dining room, lunchroom, soda fountain or any place where meals or lunches and soft drinks are served, where the owner or manager exhibits in the premises signs or placards to the effect that intoxicating liquor or nonintoxicating beer may not be drunk in or about the premises. Such signs shall be at least two (2) inches in height and shall be placed in sufficient number to be easily discernible to the general public.

(Ord. No. 84-2042, § 1(51.26A.2), 9-11-84)

Secs. 29-124—29-134. - Reserved.

DIVISION 3. - WEAPONS OFFENSES^[8]

Footnotes:

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Cross reference— *Firearms prohibited in amusement centers, arcades, § 5-24; weapons offenses for public parks, § 30-58.*

State Law reference— *Weapons offenses, RSMo Ch. 571.*

Sec. 29-135. - Defacing a firearm and possession of a defaced firearm.

- (a) For purposes of this section "deface" shall mean to alter or destroy the manufacturer's or importer's serial number, or any other distinguishing number or identification mark.
- (b) It shall be unlawful for any person to knowingly deface a firearm.
- (c) It shall be unlawful for any person to knowingly be in possession of a firearm which has been defaced.
- (d) The penalty for violations of this section shall be the same as set forth in section 1-15 of the Municipal Code.

(Ord. No. 2012-3504, §§ 1, 2, 10-16-12; Ord. No. 2012-3505, § 1, 10-16-12)

Sec. 29-136. - Carrying concealed weapon on person.

No person shall in this city wear under his clothes, or concealed about his person, any pistol or revolver, sling shot, cross knuckles, knuckles of lead, brass or other metal, or any bowie knife or other dangerous or deadly weapon; provided, that this section shall not be construed as to prevent any United States, state, county or city officer, or member of the city government, from carrying such weapons as may be necessary in the proper discharge of his duties. Any defense that would be valid under the charge of carrying concealed weapons in a state case shall be a valid defense to a charge made under this section.

(Code 1973, § 51.09)

Sec. 29-136.5. - Firearms in city buildings.

- (a) No person who has been issued a concealed carry endorsement by the Missouri Director of Revenue under RSMo 571.094 or who has been issued a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state shall, by authority of that

endorsement or permit, be allowed to carry a concealed firearm or to openly carry a firearm in any building or portion of a building owned, leased or controlled by the city.

- (b) Signs shall be posted at each entrance of a building entirely owned, leased or controlled by the city stating that carrying of firearms is prohibited. Where the city owns, leases or controls only a portion of a building, signs shall be posted at each entrance to that portion of the building stating that carrying of firearms is prohibited.
- (c) This section shall not apply to buildings used for public housing by private persons, highways or rest areas, firing ranges, or private dwellings owned, leased or controlled by the city.
- (d) Any person violating this section may be denied entrance to the building or ordered to leave the building. Any city employee violating this section may be disciplined. No other penalty shall be imposed for a violation of this section.
- (e) No person who has been issued a certificate or qualification which allows the person to carry a concealed firearm before the director of revenue begins issuing concealed carry endorsements in July, 2004, shall, by authority of that certificate, be allowed to carry a concealed firearm or to openly carry a firearm in any building or portion of a building owned, leased or controlled by the city.

(Ord. No. 2003-3195, § 1, 10-28-03)

Sec. 29-136.6. - City employees prohibited from carrying firearms while on duty.

- (a) No city employee, except police officers, including those employees who have been issued a concealed carry endorsement by the Missouri Director of Revenue under RSMo 571.094 or who have been issued a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state shall, by authority of that endorsement or permit, be allowed to carry a concealed firearm or to openly carry a firearm any place in the City of Ferguson while that employee is on duty.
- (b) Any employee violating this section may be disciplined in accordance with the City of Ferguson's Personnel Rules and Regulations.

(Ord. No. 2003-3199, § 1, 10-28-03)

Sec. 29-137. - Discharge of firearms and air guns.

It shall be unlawful for any person to fire, shoot, or discharge any firearm, or other weapon, including any air gun, bow and arrow, or crossbow within the city, whether the projectile thereof is propelled by explosive, air, or other means, and regardless of the character of the projectile; provided, it shall not be unlawful for a person to discharge a firearm within the city when:

- (1) Any civic, fraternal, benevolent, charitable or other organization may file an application with the chief of police for a one-day permit to discharge firearms within the city. The application shall specify the types of firearms to be used, the time and place of such use and the purpose for which such permit is sought. The chief of police, after consultation with other appropriate department heads, may issue such permit if such discharge or use of firearms will not endanger public safety. If a permit is issued, it shall be for a limited period of time and for a specific place and purpose. If there is any violation of the permit, or if any time it is his opinion the public may be endangered, the chief of police may issue a revocation notice and withdraw the permit.
- (2) Any veteran's organization which, as a part of its service or function, provides an honor gun for public celebrations, or military or quasi-military funerals, may make application to the chief of police for a permit for the discharge of blank ammunition. Such application shall state the name

of the organization, the types of weapons which shall be used to fire the blank ammunition, and the time and place where the weapons shall be fired. The chief of police, after consultation with other appropriate department heads, may issue such permit if such discharge or use of firearms will not endanger public safety. If a permit is issued, it shall be for a limited period of time and for a specific place and purpose. If there is any violation of the permit, or if at any time it is his opinion the public may be endangered, the chief of police may issue a revocation notice and withdraw the permit.

- (3) Any person using any public archery range for bow and arrow practice.
- (4) The provisions of this section shall not apply to law enforcement officers of the United States, State of Missouri, County of St. Louis, or the City of Ferguson, or any servicemen in the service of the United States or State of Missouri who discharge their weapons in the official and proper performance of their duties.

(Code 1973, § 51.02; Ord. No. 92-2516, § 1, 1-14-92)

Sec. 29-138. - Physicians to report gunshot or other wounds.

It shall be the duty of every physician, surgeon or other person attending, treating or prescribing for any person in the city, or who resides in the city, for wound, ailment or condition caused by gun or pistol shot or knife, dagger or other instrument, within twenty-four (24) hours after the inception of such treatment to report in writing to the chief of police, giving the name, age, place of birth, residence (street and number), color and sex of such person, and the date of such wound or condition treated, together with the character of such injury.

DIVISION 4. - FAILURE TO SUPERVISE MINORS

Sec. 29-139. - Purpose and findings.

The city council of the city has found and determined that unsupervised gatherings where alcoholic beverages, as defined herein, or controlled substances are in the possession of, consumed by, or delivered to minors constitute a potential hazard to the health, safety, and welfare of those in attendance at such gatherings and for others. The city council has further found and declared that the supervision of parties, gatherings, or events attended by minors is necessary in order to safeguard the peace, health, safety, or general welfare of the public.

(Ord. No. 96-2828, § 1, 3-26-96)

Sec. 29-140. - Definitions.

For the purpose of this division, the following definitions shall apply:

Alcoholic beverages. Any beverage constituting intoxicating liquor, light wines, malt liquor or non-intoxicating beer, as those terms are defined in Chapter 4, Article I, section 4-1 of the Code of the City of Ferguson.

Controlled substance. Any substance or immediate precursor defined or described as such in Section 195.010, Revised Statutes of Missouri (1986), as may be amended or revised from time to time.

Delivery of alcoholic beverages or controlled substances. The gift or exchange of an alcoholic beverage or controlled substance from one person to another.

Minor. Any person under the age of twenty-one (21) years.

Parent. A natural or adoptive parent, or a guardian, or the adult designee of either of them.

Party, gatherings or event. An assemblage or group of persons for a social occasion or for a social activity.

Person in control of the premises. An adult who owns, leases, rents, or is otherwise the lawful occupant of any premises, or the adult designee thereof.

Practitioner. Any medical professional, or other person, as defined or described in Section 195.010, Revised Statutes of Missouri (1986), as may be amended or revised from time to time.

(Ord. No. 96-2828, § 1, 3-26-96)

Sec. 29-141. - Use of premises for consumption of alcoholic beverages or controlled substances.

It shall be unlawful for any person to knowingly or negligently permit on or in a premises under his or her control, the consumption of alcoholic beverages or controlled substances by a minor; except that this section shall not apply to the following:

- (1) The delivery of alcoholic beverages to a minor or the consumption of alcoholic beverages by a minor in connection with the performance of any bona fide religious service under the supervision of an adult, with the consent of the person in control of the premises.
- (2) The delivery of an alcoholic beverage to a minor, by the minor's parent, and under the direct supervision of the parent.
- (3) The possession or consumption of, or the delivery to, a minor of a controlled substance prescribed for that minor by a practitioner when such delivery is by the minor's parent or by the person in control of the premises provided that he or she has obtained the prior written consent of that minor's parent.

(Ord. No. 96-2828, § 1, 3-26-96)

Sec. 29-142. - Duty to supervise.

It shall be unlawful for any person in control of a premises, or his or her adult designee, to leave a premises when it is reasonably foreseeable that said premises may be used for a gathering at which alcoholic beverages or controlled substances may be in the possession of or consumed by minors.

(Ord. No. 96-2828, § 1, 3-26-96)

Sec. 29-143. - Rental of a premises.

It shall be unlawful for any owner or agent, employee, or contractor thereof, to rent any room(s), apartment, or any building or portion of a building to a minor or to any adult when it is reasonably foreseeable that said adult, or his or her adult designee, will leave the said premises, or reasonably foreseeable that said premises may be used for a gathering at which alcoholic beverages or controlled substances may be in possession of or consumed by minors except as provided in section 29-141(1) through (3) of this division.

(Ord. No. 96-2828, § 1, 3-26-96)

Any person in control of a premises at which alcoholic beverages or controlled substances are in the possession of, or are being consumed by, minors, or his or her adult designee, shall cause all persons in or on said premises who are not lawful residents thereof to disperse not more than fifteen (15) minutes after personally receiving an order to do so, issued by a peace officer.

(Ord. No. 96-2828, § 1, 3-26-96)

Sec. 29-145. - Penalty.

Any person(s) convicted of violating the provisions of this division shall be fined an amount not to exceed five hundred dollars (\$500.00) for each offense; except that for third and subsequent violations by the same person(s), the fine shall be not less than five hundred dollars (\$500.00) for each offense.

(Ord. No. 96-2828, § 1, 3-26-96)

Sec. 29-146. - Partial validity.

If any section, subsection, clause, or phrase of this division is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this division.

(Ord. No. 96-2828, § 1, 3-26-96)

Secs. 29-147—29-149. - Reserved.

DIVISION 5. - TOBACCO-RELATED OFFENSES^[9]

Footnotes:

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Editor's note—Ord. No. 2013-3546, § 1, adopted Feb. 11, 2014, changed the title of Div. 5 from "Smoking Prohibited" to "Tobacco-Related Offenses."

Sec. 29-150. - Definitions.

The following words, terms, and phrases, when used in this division shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Minor. A person under the age of eighteen (18).

Retail tobacco store. A retail store used primarily for the sale of tobacco products and accessories and where more than seventy (70) percent of the volume of trade or business carried on there is that of the blending of tobaccos or sales of tobaccos, cigarettes, pipes, cigars or smoking sundries and in which the sale of other products is incidental. A "retail tobacco store" shall not include a tobacco department of a larger commercial establishment such as a department store, discount store or bar or retail store used primarily for the sale of smoking materials.

Smoke, smoking. Having in one's possession a lighted cigar, cigarette, pipe, or other lighted object containing tobacco.

Tobacco accessories or paraphernalia. Any instrument, utensil or device used for smoking or inhaling tobacco or similar plant products including, but not limited to, rolling papers; metal, wooden, acrylic, glass, stone, plastic or ceramic pipes; water pipes; hookahs; carburetion tubes and devices; and bongs.

Tobacco products. Any substance containing tobacco leaf including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

(Ord. No. 96-2870, § 1, 11-26-96; Ord. No. 2013-3546, § 2, 2-11-14)

Sec. 29-151. - Places where smoking is prohibited.

- (a) *Prohibition of smoking in city facilities.* The possession of lighted or heated smoking materials in any form, including, but not limited to the possession of lighted or heated cigarettes, cigars, pipes or other tobacco products, is prohibited in any building and other types of enclosed structures owned or leased for use by the City of Ferguson, including buildings, garages, warehouses, sheds, sports arenas and facilities and parking structures.
- (b) *Prohibition of smoking in certain areas of city parks.* The possession of lighted or heated smoking materials in any form, including, but not limited to the possession of lighted or heated cigarettes, cigars, pipes or other tobacco products, is prohibited in the playground areas of all city parks. The director of parks and recreation shall enact sufficient regulations to define the "playground areas" within each city park and shall place appropriate signage to notify the public that smoking is prohibited within that particular area.
- (c) *Exceptions.* The prohibitions of this section shall not apply to buildings or parts of buildings owned by the city but leased to private parties.

(Ord. No. 96-2870, § 1, 11-26-96; Ord. No. 2013-3521, § 1, 3-26-13)

Sec. 29-152. - Signage required.

- (a) *City buildings—Smoke-free entrance.* At least one (1) entrance to every city building shall be designated as a smoke-free entrance and a sign shall be posted at least twenty-five (25) feet from said entrance which shall state: "NO SMOKING PERMITTED IN THE BUILDING OR BEYOND THIS POINT."
- (b) *City buildings—All entrances.* Signed shall be posted at each entrance to all city buildings which shall state: "NO SMOKING PERMITTED IN THIS BUILDING."
- (c) *City vehicles.* Signs shall be posted in each city-owned or city-leased motor vehicle which shall state: "NO SMOKING PERMITTED IN THIS VEHICLE."

(Ord. No. 96-2870, § 1, 11-26-96; Ord. No. 2013-3546, § 3, 2-11-14)

Sec. 29-153. - Sale or distribution of tobacco products to minors prohibited.

- (a) It shall be unlawful for any person to sell, provide or distribute tobacco products or tobacco paraphernalia to persons under eighteen (18) years of age.
- (b) No person under eighteen (18) years of age shall purchase, attempt to purchase or possess cigarettes or other tobacco products or paraphernalia unless such person is an employee of a seller of such products or paraphernalia and is in such possession to effect a sale in the course of his or her employment or unless such person is acting on behalf of the Division of Alcohol and Tobacco Control or other law enforcement agency for enforcement purposes in accordance with applicable law.
- (c) No person under the eighteen (18) years of age shall misrepresent his/her age in order to purchase tobacco products or paraphernalia.
- (d) A person or entity selling tobacco products or paraphernalia or distributing tobacco product samples shall require proof of age from a prospective purchaser or recipient if any ordinary person would conclude on the basis of appearance that such prospective purchaser or recipient may be under the age of eighteen (18). Such proof of age shall include an operator's or chauffeur's license issued

pursuant to the laws of this state or any other state or territory of the United States to the residents of such States or territories; an identification card as provided for in RSMo 302.181; an identification card issued by any uniformed service of the United States; or a valid passport.

- (e) Any person seeking to purchase or obtain tobacco products or paraphernalia shall present proof of age to any owner or employee of an establishment that sells tobacco products or paraphernalia and to any agent of the Division of Alcohol and Tobacco Control when requested for the purpose of aiding such owner, employee or agent to determine whether or not the person is at least eighteen (18) years of age. Upon such presentation, the owner or employee of the establishment shall compare the photograph and physical characteristics noted on the license, identification card or passport with the physical characteristics of the person presenting the license, identification card or passport.

(Ord. No. 2013-3546, § 4, 2-11-14)

Editor's note— Ord. No. 2013-3546, § 4, adopted Feb. 11, 2014, repealed § 29-153 and enacted a new section as set out herein. The former § 29-153 pertained to signs to be posted on buildings and derived from Ord. No. 96-2870, § 1, adopted Nov. 26, 1996.

Sec. 29-154. - Restrictions on sale and distribution of tobacco paraphernalia.

- (a) The sale or other distribution of tobacco paraphernalia is hereby prohibited except in retail tobacco stores.

- (b) No person shall sell or distribute tobacco paraphernalia except as provided in this section.

(Ord. No. 2013-3546, § 5, 2-11-14)

Editor's note— Ord. No. 2013-3546, § 5, adopted Feb. 11, 2014, repealed § 29-154 and enacted a new section as set out herein. The former § 29-154 pertained to signs to be posted on motor vehicles and derived from Ord. No. 96-2870, § 1, adopted Nov. 26, 1996.

Sec. 29-155. - Penalties.

Any person or entity violating any of the provisions of this division shall be subject to a penalty as set forth in section 1-15 of this Code.

(Ord. No. 96-2870, § 1, 11-26-96; Ord. No. 2013-3546, § 6, 2-11-14)

ARTICLE VII. - OFFENSES AGAINST PUBLIC MORALS^[10]

Footnotes:

-- (10) --

Cross reference— *Massage salons, bath houses and health salons, Ch. 26.*

State Law reference— *Sexual offenses, RSMo Ch. 566; pornography and related offenses, RSMo Ch. 573.*

DIVISION 1. - GENERALLY

Sec. 29-156. - Indecent exposure.

A person commits the offense of indecent exposure if he knowingly exposes his genitals under circumstances in which he knows that his conduct is likely to cause affront or alarm.

(Code 1973, § 51.29)

State Law reference— Similar provisions, RSMo 566.130.

Secs. 29-157—29-165. - Reserved.

DIVISION 2. - PORNOGRAPHY

Sec. 29-166. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Displays publicly shall mean exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing if from a street, highway or public sidewalk or from the property of others.

Explicit sexual material shall mean any pictorial or three (3) dimensional material depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct physical stimulation or unclothed genitals, sadomasochistic abuse or emphasizing the depiction of post-pubertal human genitals; provided, however, that works of art or of anthropological significance shall not be deemed to be within the foregoing definition.

Furnish shall mean to issue, sell, give, provide, lend, mail, deliver, transfer, circulate, disseminate, present, exhibit or otherwise provide.

Material shall mean anything printed or written, or any picture, drawing, photograph, motion picture film or pictorial representation, or any statue or other figure, or any recording or transcription, or any mechanical, chemical, or electrical reproduction or anything which is or may be used as a means of communication. The term "material" includes undeveloped photographs, molds, printing plates and other latent representational objects.

Minor shall mean any person under the age of eighteen (18).

Nudity shall mean the showing of post-pubertal human genitals or pubic area, with less than a fully opaque covering.

Performance shall mean any play, motion picture film, dance or exhibition performed before an audience.

Pornographic shall mean any material or performance if, considered as a whole, applying contemporary community standards;

- (1) Its predominant appeal is to prurient interest in sex;
- (2) It depicts or describes sexual conduct in a patently offensive way;
- (3) It lacks serious literary, artistic, political or scientific value.

In determining whether any material or performance is pornographic, it shall be judged with reference to its impact upon ordinary adults.

Pornographic for minors shall mean material or performance if it is primarily devoted to description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse and:

- (1) Its predominant appeal is to prurient interest in sex; and
- (2) It is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors;
- (3) It lacks serious literary, artistic, political, or scientific value for minors.

Promote shall mean to manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do the same.

Sadomasochistic abuse shall mean flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

Sexual conduct shall mean acts of human masturbation, deviate sexual intercourse, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or the breast of a female in an act of apparent sexual stimulation or gratification.

Sexual excitement shall mean the condition of human male or female genitals when in a state of sexual stimulation or arousal.

Wholesale promote shall mean to manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate or to offer or agree to do the same for purposes of resale.

(Code 1973, § 51.30)

State Law reference— Definitions, RSMo 573.010.

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 29-167. - Promoting pornography.

A person commits the offense of promoting pornography if, knowing its content and character, he:

- (1) Promotes or possesses with the purpose to promote any pornographic material for pecuniary gain;
- (2) Produces, presents, directs or participates in any pornographic performance for pecuniary gain.

(Code 1973, § 51.30)

State Law reference— Similar provisions, RSMo 573.030(1).

Sec. 29-168. - Furnishing pornographic materials to minors.

A person commits the offense of furnishing pornographic material to minors if, knowing its content and character, he:

- (1) Furnishes any material pornographic for minors, knowing that the person to whom it is furnished is a minor or acting in reckless disregard of the likelihood that such person is a minor;
- (2) Produces, presents, directs or participates in any performance pornographic for minors that is furnished to a minor knowing that any person viewing such performance is a minor or acting in reckless disregard of the likelihood that a minor is viewing the performance.

(Code 1973, § 51.30)

State Law reference— Similar provisions, RSMo 573.040(1).

Sec. 29-169. - Public display of explicit sexual material.

A person commits the offense of public display of explicit sexual material if he knowingly:

- (1) Displays publicly explicit sexual material;
- (2) Fails to take prompt action to remove such a display from property in his possession after learning of its existence.

(Code 1973, § 51.30)

State Law reference— Similar provisions, RSMo 573.060.

Sec. 29-170. - Evidence in pornography cases.

(a) In any prosecution under this division, evidence shall be admissible to show:

- (1) What the predominant appeal of the material or performance would be for ordinary adults or minors;
- (2) The literary, artistic, political or scientific value of the material or performance;
- (3) The degree of public acceptance in this state and in the local community;
- (4) The appeal to prurient interest in advertising or other promotion of the material or performance;
- (5) The purpose of the author, creator, promoter, furnisher or publisher of the material or performance.

(b) Testimony of the author, creator, promoter, furnisher, publisher, or expert testimony, relating to factors entering into the determination of the issues of pornography, shall be admissible.

(Code 1973, § 51.30.1)

State Law reference— Similar provisions, RSMo 573.050.

Sec. 29-171. - Injunctions and declaratory judgments.

- (a) Whenever material or a performance is being or is about to be promoted, furnished or displayed in violation of sections 29-167, 29-168 or 29-169, or, a civil action may be instituted in the circuit court by the city attorney against any person violating or about to violate those sections in order to obtain a declaration that the promotion, furnishing or display of such material or performance is prohibited. Such an action may also seek an injunction appropriately restraining promotion, furnishing or display.
- (b) Any action brought under this section may be brought only in the circuit court of the county in which any such person resides, or where the promotion, furnishing or display is taking place or is about to take place.
- (c) Any promoter, furnisher or displayer of, or a person who is about to be a promoter, furnisher or displayer of, the material or performance involved may intervene as of right as a party defendant in the proceedings.
- (d) The trial court and the appellate court shall give expedited consideration to actions and appeals brought under this section. The defendant shall be entitled to a trial of the issues within one (1) day after joinder of issue and a decision shall be rendered by the court within two (2) days of the conclusion of the trial. No restraining order or injunction of any kind shall be issued restraining the promotion, furnishing or display of any material or performance without a prior adversary hearing before the court.
- (e) A final declaration obtained pursuant to this section may be used to form the basis for an injunction and for no other purpose.

- (f) All laws regulating the procedure for obtaining declaratory judgments or injunctions which are inconsistent with the provisions of this section shall be inapplicable to proceedings brought pursuant to this section. There shall be no right to jury trial in any proceedings under this section.

(Code 1973, § 51.30.2)

State Law reference— Similar provisions, RSMo 573.070.

Secs. 29-172—29-185. - Reserved.

DIVISION 3. - PROSTITUTION

Sec. 29-186. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Patronizing prostitution shall occur if:

- (1) Pursuant to a prior understanding, a person gives something of value to another person as compensation for that person or a third person having engaged in sexual conduct with him or with another;
- (2) A person gives or agrees to give something of value to another person on an understanding that in return therefor that person or a third person will engage in sexual conduct with him or with another;
- (3) A person solicits or requests another person to engage in sexual conduct with him or with another, or to secure a third person to engage in sexual conduct with him or with another, in return for something of value.

Prostitution shall occur if a person engages or offers or agrees to engage in sexual conduct with another person in return for something of value to be received by the person or by a third person.

Sexual conduct shall occur when there is:

- (1) Sexual intercourse, which means any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results;
- (2) Deviate sexual intercourse, which means any sexual act involving the genitals of one (1) person and the mouth, tongue or anus of another person;
- (3) Sexual contact, which means any touching, manual or otherwise, of the anus or genitals of one (1) person by another, done for the purpose of arousing or gratifying sexual desire of either party.

Something of value shall mean any money or property, or any token, object or article exchangeable for money or property.

Cross reference— Definitions and rules of construction generally, § 1-2.

State Law reference— Similar definitions, RSMo 567.010(2)—(5).

Sec. 29-187. - Prostitution.

A person commits the offense of prostitution if he performs an act of prostitution.

(Code 1973, § 51.28)

State Law reference— Similar provisions, RSMo 567.020(1).

Sec. 29-188. - Patronizing prostitution.

A person commits the offense of patronizing prostitution if he patronizes prostitution.

(Code 1973, § 51.28)

State Law reference— Similar provisions, RSMo 567.030(1).

Sec. 29-189. - Sex of parties no defense.

In any prosecution for prostitution or patronizing prostituting the sex of the parties or prospective parties to the sexual conduct engaged in, contemplated or solicited is immaterial, and it is no defense that:

- (1) Both persons were of the same sex;
- (2) The person who received, agreed to receive or solicited something of value was a male and the person who gave or agreed or offered to give something of value was a female.

State Law reference— Similar provisions, RSMo 567.040.

Sec. 29-190. - Prostitution establishments declared public nuisances.

- (a) Any room, building or other structure regularly used for sexual contact for pay or any unlawful prostitution activity prohibited by this division is a public nuisance.
- (b) The city attorney may, in addition to all sanctions available under this Code, prosecute a suit in equity to enjoin the nuisance. If the court having jurisdiction finds that the owner of the room, building or structure knew or had reason to believe that the premises were being used regularly for sexual contact for pay or unlawful prostitution activity, it may order that the premises shall not be occupied or used for such period as the court may determine, not to exceed one (1) year.
- (c) All persons, including owners, lessees, officers, agents, inmates or employees, aiding or facilitating such a nuisance may be made defendants in any suit to enjoin the nuisance, and they may be enjoined from engaging in any sexual contact for pay or unlawful prostitution activity anywhere within the jurisdiction of the court hearing the case.
- (d) Appeals shall be allowed from the judgment of the court having jurisdiction over the case as in other civil actions.

State Law reference— Similar provisions, RSMo 567.080.

Secs. 29-191—29-205. - Reserved.

ARTICLE VIII. - CONTROLLED SUBSTANCES^[11]

Footnotes:

-- (11) --

Cross reference— *Controlled substances prohibited in amusement centers, arcades, § 5-24.*

State Law reference— *Drug regulations, RSMo Ch. 195; provisions relating to glue sniffing, RSMo 578.250 et seq.*

DIVISION 1. - GENERALLY

Secs. 29-206—29-215. - Reserved.

DIVISION 2. - GLUE SNIFFING

Sec. 29-216. - Inhalation prohibited; exception.

- (a) No person shall intentionally smell or inhale the fumes of any solvent, particularly toluol, or induce any other person to do so, for the purpose of causing a condition of, or inducing symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction or dulling of senses or nervous system, or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes.
- (b) This section shall not apply to the inhalation of any anesthesia for medical or dental purposes.

State Law reference— Similar provisions, RSMo 578.250.

Sec. 29-217. - Inducement of certain symptoms prohibited.

No person shall intentionally or willfully induce the symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction or dulling of the senses or nervous system, distortion or audio, visual or mental processes by the use of any solvent, particularly toluol.

State Law reference— Similar provisions, RSMo 578.255(1).

Sec. 29-218. - Possession of solvents with illegal intent prohibited.

No person shall intentionally possess any solvent, particularly toluol, for the purpose of using it in the manner prohibited by sections 29-216 and 29-217.

State Law reference— Similar provisions, RSMo 578.255(2).

Sec. 29-219. - Possession or purchase with intent to assist others in illegal acts prohibited.

No person shall intentionally possess or buy any solvent, particularly toluol, for the purpose of inducing or aiding any other person to violate the provisions of sections 29-216 through 29-218.

State Law reference— Similar provisions, RSMo 578.260(1).

Sec. 29-220. - Sale, transfer of solvents with illegal intent prohibited.

No person shall knowingly and intentionally sell or otherwise transfer possession of any solvent, particularly toluol, to any person for the purpose of causing a condition of, or inducing symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction or dulling of senses or nervous system, or for the purpose of in any manner changing, distorting, or distributing the audio, visual or mental processes.

State Law reference— Similar provisions, RSMo 578.265(1).

Secs. 29-221—29-230. - Reserved.

DIVISION 3. - DRUG REGULATIONS

Sec. 29-231. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Controlled substances shall mean and include the following:

Controlled substances as defined and enumerated in RSMo Ch. 195 in effect upon the passage of this division;

- (2) *Marijuana* which shall mean all parts of the plant genus *Cannabis* in any species or form thereof, including, but not limited to *Cannabis Sativa* L., *Cannabis Indica*, *Cannabis Americana*, *Cannabis Ruderalis*, and *Cannabis Gigantea*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

Drug paraphernalia shall mean all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violating of this division. The term "drug paraphernalia" includes, but is not limited to:

- (1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- (3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;
- (5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- (6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances;
- (7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;
- (9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
- (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
- (11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;
- (12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

- a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
- b. Water pipes;
- c. Carburetion tubes and devices;
- d. Smoking and carburetion masks;
- e. Roach clips: Meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;
- f. Miniature cocaine spoons, and cocaine vials;
- g. Chamber pipes;
- h. Carburetor pipes;
- i. Electric pipes;
- j. Air-driven pipes;
- k. Chillums;
- l. Bongs;
- m. Ice pipes or chillers.

In determining whether an object is "drug paraphernalia," a court or other authority should consider, in addition to all other logically relevant factors, the following:

- (A) Statements by an owner or by anyone in control of the object concerning its use;
- (B) Prior convictions, if any, of any owner or of anyone in control of the object, under any state or federal law relating to any controlled substance;
- (C) The proximity of the object, in time and space, to a direct violation of this division;
- (D) The proximity of the object to controlled substances;
- (E) The existence of any residue of controlled substances on the object;
- (F) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows intend to use the object to facilitate a violation of this division; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this division shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
- (G) Instructions, oral or written provided with the object concerning its use;
- (H) Descriptive materials accompanying the object which explain or depict its use;
- (I) National and local advertising concerning its use;
- (J) The manner in which the object is displayed for sale;
- (K) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (L) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- (M) The existence and scope of legitimate uses for the object in the community;
- (N) Expert testimony concerning its use.

(Code 1973, § 51.45(A)—(C))

State law reference— Similar definitions RSMo 195.010

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 29-232. - Prohibited acts.

- (a) *Controlled or counterfeit substances.* It is unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense, distribute or compound any controlled or counterfeit substance except as authorized in this division.
- (b) *Use or possession of drug paraphernalia.* It is unlawful for any person to use or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or an imitation controlled substance in violation of this division.
- (c) *Delivery or manufacture of drug paraphernalia.* It is unlawful for any person to deliver, possess with intent to deliver or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or an imitation controlled substance in violation of this division.
- (d) *Advertisement of drug paraphernalia.* It is unlawful for any person to place in any newspaper, magazine, handbill or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
- (e) *Use of imitation controlled substances.* It is unlawful for any person to use, or to possess with intent to use, an imitation controlled substance in violation of this division.
- (f) *Delivery or manufacture of imitation controlled substances.* It is unlawful for any person to deliver, possess with intent to deliver, manufacture with intent to deliver, or cause to be delivered any imitation controlled substance.
- (g) *Advertisement of imitation controlled substances.* It is unlawful for any person to place in any newspaper, magazine, handbill or other publication, or to post or distribute in any public place, any advertisement or solicitation with reasonable knowledge that the purpose of the advertisement or solicitation is to promote the distribution of imitation controlled substances.

(Code 1973, § 51.45(D))

Sec. 29-233. - Possession of marijuana or hashish.

- (a) *Violation.* It is unlawful for any person to possess or have under his control thirty-five (35) grams or less of marijuana or five (5) grams or less of hashish.
- (b) *Penalty.* For the offense of possession of thirty-five (35) grams or less of marijuana or five (5) grams or less of hashish, such person in possession of same shall be subject to a fine of not more than five hundred dollars (\$500.00) or imprisonment for not more than four (4) months, or both such fine and imprisonment.

(Ord. No. 85-2099, § 1, 9-10-85)

Sec. 29-234. - Public nuisance prohibited.

- (a) Every person who owns, resides in, uses, or is responsible for an inhabitable structure, shall take all possible action to prevent said inhabitable structure from being the site of any illegal use, possession, or selling of a controlled substance or the site of the possession of methamphetamine precursors

methamphetamine and related substances or the site where any controlled substance is manufactured illegally and any inhabitable structure which is the site of such activity is hereby declared to be a public nuisance.

- (b) For purposes of sections 29-234 through 29-239.1, a "controlled substance" is any substance so classified under Section 102(6) of the Controlled Substances Act, 21 U.S.C. §802(6), and includes all substances listed in Schedules I through V of 21 CFR Part 1308, as they may be revised from time to time; and any controlled substance as defined in Chapter 195 of the Revised Statutes of Missouri, in effect upon the passage of or as amended; and any controlled substance defined in section 29-231 of the Municipal Code.
- (c) For purposes of sections 29-234 through 29-239.1, "inhabitable structure" means any structure or portion of a structure, regardless of whether any person is actually present, in which:
 - (1) Any person lives or carries on business or other calling;
 - (2) People assemble for purposes of business, government, education, religion, entertainment, or public transportation; or
 - (3) Persons are accommodated overnight.
- (d) For purposes of sections 29-234 through 29-239.1, the following terms related to the production or manufacture of methamphetamine and related drugs shall mean:
 - (1) *Manufacture of methamphetamine*: The production, preparation, propagation, compounding or processing of methamphetamine and/or related drugs by way of, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. The possession of more than twenty-four (24) grams of any methamphetamine precursor drug or combination of methamphetamine precursor drugs shall be prima facie evidence of the manufacturing or production of methamphetamine.
 - (2) *Methamphetamine precursor drug*: Any drug containing ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers.
 - (3) *Chemical used in the manufacture of methamphetamine*: A chemical or substance which is commonly used in the manufacture of methamphetamine or related drugs and is an immediate chemical intermediary used or likely to be used in the manufacture of methamphetamine and related drugs including, but not limited to: Anthranilic acid, its esters and its salts; Benzyl cyanide; Ergotamine and its salts; Ergonovine and its salts; N-Acetylanthranilic acid, its esters and its salts; Phenylacetic acid, its esters and its salts; Piperidine and its salts; 3,4,-Methylenedioxyphenyl-2-propanone; Acetic anhydride; Acetone; Benzyl Chloride; Ethyl ether; Hydriodic acid; Potassium permanganate; 2-Butanone (or Methyl Ethyl Ketone or MEK); Toluene; Ephedrine, its salts, optical isomers, and salts of optical isomers; Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers; Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers; Pseudoephedrine, its salts, optical isomers, and salts of optical isomers; Methylamine and its salts; Ethylamine and its salts; Propionic anhydride; Isosafrole; Safrole; Piperonal; N-Methylephedrine, its salts, optical isomers and salts of optical isomers; N-Methylpseudoephedrine, its salts, optical isomers and salts of optical isomers; Benzaldehyde; Nitroethane; Methyl Isobutyl Ketone (MIBK); Sulfuric acid; Iodine; Red phosphorous; Gamma butyrolactone; 1,4 Butanediol.
 - (4) *Production*: The manufacture of a controlled substance.

(Ord. No. 97-2968, § 1, 12-9-97; Ord. No. 2005-3247, § 1, 9-13-05)

Sec. 29-235. - Notice of public nuisances.

(a) Whenever the city attorney or the prosecuting attorney of the city receives notice that:

- (1) A search warrant has been issued and executed for any inhabitable structure in the city and that controlled substances have been confiscated as a result of said search warrant; or
- (2) An arrest has been made in any inhabitable structure in the city and that controlled substances have been confiscated as a result of said arrest; or
- (3) A search warrant has been issued and executed for any inhabitable structure in the city and that a methamphetamine precursor drug and two (2) or more chemicals used in the manufacture of methamphetamine were discovered as a result of said search warrant;

then the city attorney or the prosecuting attorney may cause a "Notice of Public Nuisance: to be served on all owners and tenants of said inhabitable structure, advising them that the property may be declared a public nuisance by the director of public works either immediately or in the event of any subsequent use of the inhabitable structure for the illegal use, possession or sale of controlled substance. Said notice shall be given in accordance with subsection (c) of this section.

(b) If:

- (1) The city attorney or prosecuting attorney believes that there have been two (2) or more instances of illegal use, possession, or selling of controlled substances at the inhabitable structure within a three-year period; or
- (2) Within three (3) years of sending the "Notice of Public Nuisance" the city attorney or prosecuting attorney receives notice of a subsequent use of the inhabitable structure for the illegal use, possession, or sale of controlled substances; or
- (3) The city attorney or prosecuting attorney believes that the methamphetamine precursor drugs and chemicals used in the manufacture of methamphetamine found at the inhabitable structure were for the purpose of manufacturing methamphetamine;

the city attorney or prosecuting attorney shall notify the director of public works or his designee (hereinafter "director") of said uses. The director shall thereafter send a notice to all owners and tenants that a public nuisance may exist under this chapter and that any such nuisance must be abated within thirty (30) days of sending of the notice. Said notice shall be given in accordance with subsection (c) of this section. (c) All notices required herein shall be served by means of certified mail, return receipt requests, sent to the last known address of the intended recipient. In the event said notice is not received within ten (10) days of the original mailing, posting said notice in a conspicuous place at the inhabitable structure described therein shall be sufficient and notice shall be deemed received on the date of posting. (d) It shall be unlawful to mutilate or remove any notice posted on or about an inhabitable structure under authority of sections 29-234 through 29-239.1.

(Ord. No. 97-268, § 1, 12-9-97; Ord. No. 2005-3247, § 1, 9-13-05)

Sec. 29-236. - Failure to abate prohibited.

It shall be unlawful for any person or entity who is sent or receives notice of a public nuisance under this chapter to fail to take all possible action to abate or bring about abatement of said public nuisance.

(Ord. No. 97-268, § 1, 12-9-97)

Sec. 29-237. - Determination of nuisance and abatement.

- (a) If the director believes that a public nuisance may exist at the expiration of the thirty-day period after sending the notice or posting of the notice, he shall give notice to all owners and tenants by certified mail that the director shall hold a hearing at the time and place specified therein for the purpose of determining whether a public nuisance exists. Any such notice shall be given at least twenty-one (21) days prior to the scheduled hearing, and shall also be posted on the inhabitable structure which shall be sufficient and notice shall be deemed received on the date of posting.
- (b) Each interested person shall be given an opportunity at the hearing to present evidence under oath and to be represented by counsel. The director shall have the power, on his own motion, to subpoena witnesses and to take testimony, under oath, pertaining to all relevant matters. The director may continue all or part of a hearing, if necessary, to conclude the investigation.
- (c) If, based on all the evidence adduced, the director shall determine that the use of the inhabitable structure for the illegal use, sale, or possession of drugs, methamphetamine precursor drugs, or chemicals used in the manufacture of methamphetamine or the attempted manufacture of methamphetamine is a significant, continuous, and unreasonable interference with the rights common to all members of the community in general, such as public health, safety, peace, morals, or convenience, he may:
 - (1) Order the discontinuance of such use of the inhabitable structure where a public nuisance exists; and/or
 - (2) Order the closing of said inhabitable structure as necessary to abate the public nuisance, as described hereafter.
- (d) In determining whether an inhabitable structure should be closed as a result of the existence of a public nuisance under this chapter, the director shall consider, in addition to other relevant factors, the impact of the closure on innocent parties; however, the lack of knowledge of, acquiescence in, participation in, or responsibility for a public nuisance on the part of the owners, lessors, lessees, mortgagees and all other persons in possession or having charge of as agent or otherwise, or having an interest in the inhabitable structure used in conducting or maintaining the public nuisance shall not be a defense by such persons or entities.
- (e) Results of the hearing shall be mailed to the owner or the tenant by means of certified mail, return receipt requested. Any interested person or organization present at the hearing may request a copy of the director's order. A copy of said order shall also be posted on the inhabitable structure within seventy-two (72) hours of the decision. Thirty (30) calendar days after the posting of an order issued pursuant to this section, officers of the Ferguson Police Department are authorized to act upon and enforce such orders.

(Ord. No. 97-268, § 1, 12-9-97; Ord. No. 2005-3247, § 1, 9-13-05)

Sec. 29-238. - Enforcement of closure order.

- (a) When the director orders the closing of an inhabitable structure under this chapter, such closing shall be for a period as the director may direct, but in no event shall the closing be for a period longer than one (1) year from the date of the posting of the order. If the owner, lessor, or lessee shall submit proof satisfactory to the director that the public nuisance has been abated for a period of thirty (30) days, then the director may vacate or modify the provisions of the order directing closure.
- (b) A closing directed by the director pursuant to this chapter shall not constitute an act of possession, ownership, or control of the closed inhabitable structure by the City of Ferguson.
- (c)

In the event that an inhabitable structure ordered closed by the director is not closed by the owners or others in control of it, the director shall take all appropriate steps to undertake and complete the work necessary to secure the inhabitable structure and shall charge the owners of the inhabitable structure therefor. In the event that the owners do not promptly reimburse the city for necessary steps taken, the director shall report the charges to the city's collector of revenue and/or finance director who shall order the assessment against the property so benefitted.

Additionally, the city attorney may commence procedures through the appropriate court to recover costs incurred by the city for closure of the inhabitable structure.

(Ord. No. 97-268, § 1, 12-9-97)

Sec. 29-239. - Use of a closed habitable structure prohibited.

It shall be unlawful to use or occupy, or to permit the use or occupancy of, any inhabitable structure ordered closed by the director pursuant to this chapter.

(Ord. No. 97-268, § 1, 12-9-97)

Sec. 29-239.1. - Promulgation of rules.

The city attorney may promulgate rules and regulations to carry out and give full effect to the provisions of section 29-234 through 29-239 as needed.

(Ord. No. 97-268, § 1, 12-9-97)

ARTICLE IX. - ALARM SYSTEMS

Sec. 29-240. - Definitions.

For the purpose of this article, the following definitions shall apply:

Alarm system means any mechanical or electrical device which is designed to be actuated manually or automatically upon the detection of an unauthorized entry, intrusion, or other emergency in or on any buildings, structure, facility, or premises through the emission of a sound or transmission of a signal or message.

Alarm user means a person who uses an alarm system to protect any buildings, structures, facilities, or premises.

Automatic dialing device means an alarm system that automatically dials a specific telephone number and transmits an emergency message by recording over regular telephone lines when actuated.

Direct signal alarm system means an alarm system which provides for a special telephone line that is directly connected to the police department and has an outlet at the police department which emits a sound or transmits a signal or both when activated.

False alarm means an activation of an alarm system intentionally or by inadvertence, negligence, or unintentional action to which the city police department responds, including activation caused by the malfunction of the alarm system, except that the following shall not be considered false alarms:

- (1) When the chief of police determines that an alarm has been caused by the malfunction of the indicator at the police department;

- (2) When the chief of police determines that an alarm has been caused by damage, testing, or repair of telephone equipment or lines by the telephone company, provided that such incidents are promptly reported to the telephone company;
- (3) When an alarm is caused by an attempted and unauthorized or illegal entry, of which there is visible evidence;
- (4) When an alarm is followed by a call to the police department canceling the alarm by giving proper information, prior to the arrival of the police department at the source of the alarm;
- (5) When the chief of police determines that an alarm has been caused by a malfunction of electrical power beyond the control of the alarm user.

(Ord. No. 93-2675, § 1, 11-9-93)

Sec. 29-241. - False alarms.

- (a) All false alarms to which the police department responds shall result in a twenty-five dollar (\$25.00) service charge per each false alarm imposed upon the alarm user; provided, however, that for the first false alarm in any calendar year, the alarm user will receive a warning and will not incur any charge.
- (b) Upon determination by the police department that a false alarm has occurred, the police department shall send a notice to the alarm user notifying the alarm user of the determination and directing payment within ten (10) days of any service charge that may be due.
- (c) The police department shall cancel any notice or service charge upon satisfactory proof by the alarm user that a particular alarm falls within the exceptions enumerated in the definition of false alarm as provided for in section 29-240.
- (d) Refusal to pay any such service charge within ten (10) days of such notice shall constitute a violation of this section.

(Ord. No. 93-2675, § 1, 11-9-93; Ord. No. 2010-3426, § 1, 4-20-10)

Sec. 29-242. - Automatic dialing devices.

No person shall install or use an automatic dialing device which is programmed to dial any telephone number of any public or quasi-public body, including 911, for the purpose of obtaining emergency service. Within ninety (90) days from the effective date of this article, all automatic dialing devices programmed to dial the police department telephone number shall be re-programmed to dial any consenting person who may relay the emergency message to the police department by voice.

(Ord. No. 93-2675, § 1, 11-9-93)

Sec. 29-243. - Audible alarms.

No person shall install or use an audible alarm which is equipped with an exterior sound-producing device such as a gong, buzzer, siren, bell, or horn, unless the same shall be equipped with a fifteen-minute timer.

(Ord. No. 93-2675, § 1, 11-9-93)

Sec. 29-244. - When license required.

Any person who installs, maintains, sells, leases, services, repairs, alters, replaces, or moves any alarm system or causes the same to be sold, leased, maintained, serviced, repaired, altered, replaced, moved, or installed, in or on any building, structure, facility, or premises shall be properly licensed under the

ordinances of St. Louis County as the same pertains to licensing and regulation for the installation and use of alarm systems.

(Ord. No. 93-2675, § 1, 11-9-93)

Sec. 29-245. - Registration.

Any alarm user shall register such alarm system with the police department of the city within one (1) week after installation. No charge for any false alarm shall be made during the first two (2) weeks after the registration of such alarm.

(Ord. No. 93-2675, § 1, 11-9-93)

Chapter 30 - PARKS AND RECREATION^[1]

Footnotes:

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Cross reference— *Parks and recreation department, § 2-241 et seq.; amusements, Ch. 5; health, Ch. 19; library, Ch. 24; massage salons, bath houses and health salons, Ch. 26; mobile homes and trailers, Ch. 27; littering, § 29-65; streets, sidewalks and other public places, Ch. 40; park tax levied, § 42-9.*

State Law reference— *Parks and recreation, RSMo Ch. 90.*

ARTICLE I. - IN GENERAL

Sec. 30-1. - Purpose.

The purpose of this chapter is to establish the parks and recreation board and to regulate the use of the parks and recreation buildings of the city in order that all persons may enjoy and make use of such parks and buildings and to protect the rights of those in the surrounding areas.

(Code 1973, § 11.01)

Sec. 30-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amplified music shall mean music projected and transmitted by electronic equipment including amplifiers, the total output of which amplifiers, including the sum-wattage output of each channel, exceeds twenty-five (25) watts.

Amplified speech shall mean speech projected and transmitted by electronic equipment including amplifiers, the total output of which amplifiers, including the sum of the wattage output of each channel, exceeds twenty-five (25) watts.

Bicycle shall mean every vehicle propelled solely by human power upon which any person may ride, having two (2) tandem wheels, except scooters and similar devices.

Buildings shall include those buildings, or any portions thereof, under the supervision of the recreation department, which are made available to exclusive use permittees.

Intoxicating liquors shall mean and include alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt or other liquors, or combinations of liquors, a part of which is spirituous, vinous or fermented and all preparations or mixtures for beverage purposes, containing in excess of three and two-tenths (3.2) percent alcohol by weight.

State Law reference— Similar definition, RSMo 311.020.

Nonintoxicating beer shall be construed to refer to and to mean any beer manufactured from pure hops or pure extract of hops, pure barley malt or other wholesome grains or cereals and wholesome yeast, and pure water, and free from all harmful substance, preservatives and adulterants, and having an alcoholic content of more than one-half of one percent by volume and not exceeding three and two-tenths (3.2) percent by weight.

State Law reference— Similar definition, RSMo 312.010(2).

Park shall mean a park, reservation, playground, swimming pool, recreation center or any other area in the city, owned or used by the city and devoted to active or passive recreation.

Permit shall mean a permit for exclusive use of parks or portion thereof, of buildings, or portion thereof, as provided for and defined in this chapter.

Vehicle shall mean every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting motorized bicycles and devices moved by human power or used exclusively upon stationary rails or tracks.

(Ord. No. 86-2134, § 1, 4-22-86)

State Law reference— Similar definition, RSMo 300.010(41).

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 30-3. - Compliance required.

No person shall enter, be, or remain in any park or building of the city unless he complies with all of the regulations set forth in this chapter, applicable to such park or building.

(Code 1973, § 11.05)

Sec. 30-4. - Park fund.

All moneys received by the parks and recreation department in connection with various park operations shall be deposited in an official depository to the credit of the park fund of the city and a duplicate deposit slip shall be given to the director of finance.

(Code 1973, § 11.04)

Cross reference— Finance generally, § 2-631 et seq.

Sec. 30-5. - Gifts and bequests.

Any person desiring to make donations of money, personal property or real estate for the benefit of the city parks, shall have the right to vest the title to the money or real estate so donated to the council to be held and controlled by the council, when accepted according to the terms of the deed, gift, devise or

bequest of the property; and as to the property, the council shall be held and considered to be special trustees.

(Ord. No. 85-2054, § 1(4.32), 2-12-85)

State Law reference— Similar definition, RSMo 90.570.

Sec. 30-6. - Closing sections of park.

Any section or part of the park may be declared closed to the public by the director of parks and recreation at any time and for any interval of time, either temporarily or at regular and stated intervals and either entirely or merely to certain uses as the director shall find reasonably necessary.

(Code 1973, § 11.32)

Sec. 30-7. - January-Wabash Memorial Park.

The name of January-Wabash Park is changed to January-Wabash Memorial Park and the Ferguson Municipal Code is amended throughout by interlineation changing January-Wabash Park wherever it appears to January-Wabash Memorial Park.

(Ord. No. 2003-3168, § 1, 1-28-03)

Sec. 30-8. - Limitation on use and participation by sex offenders.

- (a) The director of parks and recreation shall promulgate such rules and regulations to enforce section 29-93 of this Code which prohibits sex offenders, as defined in that section, to enter, be present in or loiter within five hundred (500) feet of any child-care facility, a public park, or a pool open to the general public.
- (b) No permit or other form of authorization shall be issued by the department of parks and recreation or other department or employee of the city which would authorize the use of any city park or the city pool or which would authorize the participation in any city-sponsored recreational activity by sex offenders as defined in section 29-93 of this Code.

(Ord. No. 2008-3353, § 2, 4-22-08; Ord. No. 2012-3510, § 3, 12-11-12)

Secs. 30-9—30-15. - Reserved.

ARTICLE II. - PARK AND RECREATION ADVISORY BOARD^[2]

Footnotes:

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Cross reference— *Boards, commissions and committees, § 2-306 et seq.*

Sec. 30-16. - Established; designated park board.

- (a) There is hereby established a park and recreation advisory board which shall consist of nine (9) citizen members all of whom shall be appointed by the council. Members appointed to the board shall have been residents of the city for at least two (2) years immediately prior to their appointments.
- (b) The park and recreation board is hereby designated the city's park board within the meaning of Charter section 5.1.

(Code 1973, § 11.03(a))

Sec. 30-17. - Term, compensation, removal, vacancies of members.

The members of the park and recreation advisory board shall be appointed for staggered terms of three (3) years. The members of the board shall receive no compensation for their services as such. The council may remove any member of the board for misconduct or neglect of duty. Vacancies on the board occasioned by removal, resignation, or for any other cause, shall be filled for the remainder of the term in like manner in the case of the original appointment.

(Code 1973, § 11.03(b); Ord. No. 87-2233, § 1, 11-10-87)

Sec. 30-18. - Officers; rules.

The park and recreation advisory board shall hold its annual meeting in the month of January. The board shall meet and organize by the election of one (1) of its members as president and by the election of such other officers as it may deem necessary. The board shall make and adopt such rules and regulations for its own guidance and proceedings as may be expedient, not inconsistent with the Charter, or the provisions of this Code.

(Code 1973, § 11.03(c))

Sec. 30-19. - Duties.

The park and recreation advisory board shall:

- (1) Survey and make plans for the maintenance of an adequate system of parks and recreation facilities and activities, and for the enlargement, improvement or acquisition of parks or recreational areas and activities and make recommendations therefor;
- (2) Approve rules and regulations for the administration of the activities of the parks and recreation department, which rules shall become effective when approved by the council;
- (3) Advise the council and the director of parks and recreation on problems concerning the administration of the parks;
- (4) Make any investigation which it may consider desirable with reference to the administration of the parks and recreation department and report to the council at least once a year its findings, conclusions and recommendations;
- (5) Review that portion of the annual budget of the city pertaining to the parks and recreation department, and make recommendations thereon directly to the city manager and the council;
- (6) Recommend and approve fee schedules to be published by the director of parks and recreation for permits and fee programs conducted or operated by the department of parks and recreation;
- (7) Perform such other duties with reference to the administration of the department of parks and recreation, not inconsistent with the Charter, as may be provided by ordinance.

(Code 1973, § 11.03(d))

Sec. 30-20. - Referral of ordinances.

No ordinance pertaining to the parks and recreation department or the recreational activities of the city shall be considered by the council without first referring the same to the park and recreation advisory board and receiving its recommendation with reference thereto. If no recommendation is received from the board within a period of thirty (30) days after the matter is referred to the board, then the council may take action without such recommendation.

(Code 1973, § 11.03(e))

Secs. 30-21—30-30. - Reserved.

ARTICLE III. - PERMITS

Sec. 30-31. - Exclusive use of park facilities—Permit.

- (a) The park facilities of the city are hereby limited to residents of the city and their guests.
- (b) The city's park facilities shall be made available for the exclusive use of persons and groups subject to the issuance of a permit by the director of parks and recreation and subject to the payment of published fees therefor. No exclusive use of any park facilities for advertised assemblies or groups may be made without the issuance of a permit therefor. No exclusive use permit will be granted, if prior to the time an application is filed, the city has scheduled a city-sponsored event at the same time and place as the activity proposed in the application.

(Code 1973, § 11.06)

Sec. 30-32. - Same—Application for permit.

- (a) Any person wishing to obtain a permit for exclusive use of park facilities shall file an application for such permit with the director not less than fourteen (14) days nor more than ninety (90) days prior to the proposed use of the park. The director of parks and recreation may waive the fourteen-day period if applicant waives all appeal rights.
- (b) The application must be signed or co-signed by an adult who shall agree to be responsible for such use of the park.

(Code 1973, § 11.07)

Sec. 30-33. - Exclusive use of buildings—Permit.

The city's recreation buildings shall be made available for the exclusive use of individuals or groups subject to the issuance of a permit by the director of parks and recreation and subject to the payment of fees therefor as published. Closing times of each building shall be set by the director. No exclusive use permit will be granted, if prior to the time the application was filed, the city has scheduled a city-sponsored event at the same time and place as the activity proposed in the application.

(Code 1973, § 11.08)

Sec. 30-34. - Same—Application.

Any person applying for a permit for exclusive use of a building shall file an application for such exclusive use permit to the director of parks and recreation not less than fourteen (14) nor more than ninety (90) days prior to the proposed use of such building. The director may waive the fourteen-day period if applicant waives all rights of appeal.

(Code 1973, § 11.09)

Sec. 30-35. - Fees and deposits.

Upon the granting of any permit under this article, any fees or deposits required for the use of park personnel, buildings, equipment and facilities, shall be contained in the permit and such fees or deposits shall be paid by the applicant prior to the receipt of the permit. If such fees or deposits are not paid, the permit shall be null and void.

(Code 1973, § 11.10)

Sec. 30-36. - Liability.

All persons to whom an exclusive use permit has been granted must agree in writing to hold the city harmless and indemnify city from any and all liability for injury to persons or property occurring as a result of the activity sponsored by permittee and said person shall be liable to the city for any and all damage to parks, facilities and buildings owned by the city which results from the activity of permittee or is caused by any participant in such activity.

(Code 1973, § 11.11)

Sec. 30-37. - Sales for profit prohibited; exceptions.

No permit shall be issued authorizing the use of any park or building where the activity proposed is to be held for the sole purpose of advertising or selling any product, goods, wares, merchandise, services or event and its purpose is for personal benefit other than civic, fraternal, charitable, political, religious, veteran, service or similar organizations. Provided, however, the director of parks and recreation may issue permits to persons for the purpose of selling for profit of products, goods, wares and merchandise in the city parks where said sales will be incidental to and part of specific events that are organized and sponsored by the City of Ferguson. Said city-sponsored events will be subject to the specific rules and regulations of the parks and recreation board and under the general supervision of the director of parks and recreation.

(Code 1973, § 11.13; Ord. No. 85-2117, § 1, 12-17-85)

Sec. 30-38. - Amplified sound.

The use of any system for amplifying sounds, whether for speech or music or otherwise, is prohibited in any park unless an exclusive-use permit is first secured.

(Code 1973, § 11.14)

Sec. 30-39. - Boating.

No person shall place or operate any boat, canoe or water conveyance on any lake or waterway in any city park. Provided, however, the director of parks and recreation may, by permit, authorize boating on such lake or waterways for specific events as authorized by rules and regulations enacted by the parks and recreation board. Provided, further, this section shall not be construed to prohibit the operation of toy or model boats on January-Wabash Memorial Lake when said boats are powered by sail, electricity, solar or steam energy.

(Code 1973, § 11.15; Ord. No. 87-2238, § 1, 11-24-87; Ord. No. 2003-3168, § 1, 1-28-03)

Secs. 30-40—30-50. - Reserved.

ARTICLE IV. - USE REGULATIONS

Sec. 30-51. - Standards and guidelines.

No person shall engage in any activity in any park contrary to the standards and guidelines set forth by the director of parks and recreation.

(Code 1973, § 11.21)

Sec. 30-52. - Traffic.

- (a) In parks where vehicle traffic is permitted, the maximum speed limit for all vehicles is fifteen (15) miles per hour and these vehicles must be removed from the parks prior to the time designated and posted for closing of the park.
- (b) Motorcycles, motorbikes and similar vehicles are not permitted in any park except where used to transport handicapped persons.
- (c) No person shall operate or park any vehicle as defined in this chapter within a park except upon areas designated for such use.

(Code 1973, § 11.12)

Cross reference— Traffic and motor vehicles generally, Ch. 28.

Sec. 30-53. - Golf.

No person shall play or practice golf or use golf clubs in any area of a park not designated for such use.

(Code 1973, § 11.16)

Sec. 30-54. - Model airplanes or toys.

No person shall operate any motor-driven model airplane, car or toy in a park not designated for such use.

(Code 1973, § 11.17)

Sec. 30-55. - Animals.

- (a) No person, except a Ferguson police officer with a Ferguson Police Department Canine Corps dog, shall walk or have a dog of any kind in January-Wabash Memorial Park on the Fourth of July from 8:00 a.m. until midnight.
- (b) No person shall operate, drive or ride upon any horse or any other animal in any park except in areas designated and posted specifically for such use.

(Code 1973, § 11.18; Ord. No. 95-2777, § 1, 6-13-95; Ord. No. 2003-3168, § 1, 1-28-03)

Cross reference— Animals generally, Ch. 5.

Sec. 30-56. - Litter.

No person within any park shall leave any garbage, trash, cans, bottles, papers, yard waste or other refuse elsewhere than in the receptacles provided therefor.

(Code 1973, § 11.19; Ord. No. 92-2537, § 1, 6-9-92)

Cross reference— Litter generally, § 29-65.

Sec. 30-57. - Interference with reserved spaces or park employees.

- (a) No person within any park or building shall use or attempt to use or interfere with the use of any table, space or facility within such park or building which at the time is reserved for any other person or group which has received a permit from the director of parks and recreation therefor. Unless the actual use of tables, space, area, building or facility referred to in any such permit is commenced within one (1) hour after the period covered by such permit begins, such permit shall thereupon be void and all rights under such permit shall thereupon be void and all rights under such permit may be cancelled.

- (b) No person within any park or building shall interfere with any park and recreation department employee at any time in the performance of his duty.

(Code 1973, § 11.20)

Sec. 30-58. - Weapons.

- (a) No person shall discharge or shoot any firearm, air gun, slingshot or bow and arrow in any park except at places designated and posted specifically for such purpose.
- (b) No one shall discharge arrows or other projectiles from a cross-bow at any time or in any place or in any park in the city.

(Code 1973, § 11.22)

Cross reference— Weapons offenses, § 29-136 et seq.

Sec. 30-59. - Flora.

No person other than a duly authorized city employee in the performance of his duty or persons participating in city-sponsored activities shall dig, remove, destroy, disfigure, injure, mutilate or cut any tree, plant shrub, bloom or flower, or any portion thereof, growing in any park.

(Code 1973, § 11.23)

Sec. 30-60. - Fauna.

- (a) No person in a park shall hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal nor shall he remove or have in his possession the young of any wild animal, or the eggs or nest or young of any reptile or bird.
- (b) An exception to subsection (a) is hereby made in that snakes known to be deadly poisonous, such as rattlesnakes or other deadly reptiles, may be killed on sight.
- (c) No person in a park shall give or offer, or attempt to give to any animal or bird any tobacco, alcohol or other known noxious substances.

(Code 1973, § 11.24)

Sec. 30-61. - Removal of turf or soil.

No person other than a duly authorized city employee in the performance of his duty shall remove any wood, turf, grass, soil, rock, sand or gravel from any park or make any excavation by tool, equipment, blastin or other means or agency.

(Code 1973, § 11.25)

Sec. 30-62. - Marking, injuring, or disturbing any structure.

No person other than a duly authorized city employee in the performance of his duty shall:

- (1) Cut, break, injure, deface, disfigure or disturb any rock, building, bridge, cage, pen, monument, fireplace, sign, fence, bench, railing, structure, apparatus, equipment or property in a park;
- (2) Mark or place thereon any mark, writing or printing;
- (3) Attach thereto any sign, card, display, or other similar device, except as authorized by permit;
- (4) Erect or maintain any overhead wires through any park, without prior written permission;
- (5)

Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon, or across such lands, except on special written permit issued.

(Code 1973, § 11.26)

Sec. 30-63. - Fires.

No person shall light or maintain any fire in any park unless such fire is maintained only in a stove or fire circle or place provided for such purpose.

(Code 1973, § 11.27)

Cross reference— Fire prevention and protection generally, Ch. 17.

Sec. 30-64. - Solicitation.

No person shall solicit in any manner or for any purpose or sell or offer for sale any goods, wares, merchandise in any park except as authorized by permit.

(Code 1973, § 11.28)

Cross reference— Peddlers and solicitors generally, Ch. 32.

Sec. 30-65. - Sanitation; prohibited acts.

No person in a park shall:

- (1) Throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, storm sewer, or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of such waters;
- (2) Have brought in or shall dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, refuse or trash; nor shall these be placed in any waters in or contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

(Code 1973, § 11.29)

Cross reference— Littering, § 29-65.

Sec. 30-66. - Alcoholic beverages.

(a) No person shall consume or have in his possession in any park, in any building located within any park, or in any parking area located next to or in any park in the City of Ferguson, any intoxicating liquor or nonintoxicating beer except as follows:

- (1) Nonintoxicating beer, malt liquor and wine may be possessed and consumed during daylight hours in January-Wabash Memorial Park except in the following areas:
 - a. All land located within the following described area, to wit: beginning at the maintenance road at the southwest end of January-Wabash Memorial Lake, extending south to January Avenue, east to the maintenance drive at the east side of the lake, north along the east side of the pavement to the maintenance garage, west to the lake and then, in a generally southerly direction, around the lake shore to the point of beginning;

The playground area located between January-Wabash Memorial Lake and the band shell in the park;

- c. Any athletic field, bleacher, dugout, spectator area at athletic events or in any parking area located next to or in January-Wabash Memorial Park.
 - (2) Intoxicating liquor and nonintoxicating beer may be possessed and consumed for any period of time and in any specific area of January-Wabash Memorial Park that may be designated and approved by the director of parks and recreation for a special function. Provided, however, before use a permit must first be obtained from the director of parks and recreation in accordance with the parks and recreation advisory board's rules and regulations.
 - (3) Nonintoxicating beer, malt liquor and wine may be consumed during daylight hours only in the pavilions within Hudson Park. Provided, however, before use a permit must first be obtained from the director of parks and recreation in accordance with the park and recreation advisory board's rules and regulations.
 - (4) Alcoholic beverages purchased from the concession stands in Forestwood Park may be possessed and consumed in Forestwood Park so long as a Ferguson police officer is on duty in the park. No other alcoholic beverages, including but not limited to all intoxicating liquors and non-intoxicating beer may be possessed or consumed in Forestwood Park. No alcoholic beverages of any kind may be possessed or consumed on any athletic field or court in Forestwood Park during one-half hour before or one-half hour after any athletic event on said field or court.
 - (b) No person shall enter any park, be in any park, or be in any parking lot in any park, or adjoining any parking lot, under the influence of intoxicating liquor, nonintoxicating beer or narcotic drugs.
- (Code 1973, § 11.30; Ord. No. 87-2200, § 1, 4-28-87; Ord. No. 2001-3112, § 1, 4-17-01; Ord. No. 2002-3140, § 1, 3-12-02; Ord. No. 2003-3168, § 1, 1-28-03; Ord. No. 2003-3169, § 1, 2-25-03; Ord. No. 2004-3209, § 1, 3-30-04; Ord. No. 2007-3304, § 1, 3-27-07; Ord. No. 2008-3346, § 1, 3-11-08)

Cross reference— Alcoholic beverages generally, Ch. 4.

Sec. 30-67. - Behavior in parks; prohibited acts.

No person in a park shall:

- (1) Have in his possession, or set off or otherwise cause to explode or discharge or burn, any firecrackers, torpedo, rocket, or other explosives of flammable material, or discharge them or throw them into any such area from land or highway adjacent thereto. His prohibition includes any substance, compound, mixture or article that in conjunction with any other substance or compound would be dangerous from any of the foregoing standpoints. The director of parks and recreation may issue permits for fireworks' displays for special events and shall establish regulations governing such a display;
- (2) No person over the age of six (6) years shall use restrooms and washrooms designated for the opposite sex;
- (3) No person having the control or care of any dog shall suffer or permit such dog to enter or remain in a park unless it is led by leash of suitable strength not more than six (6) feet in length; and the owner and the attendant shall be responsible for any damage caused in any event by such dog, even if on a leash;
- (4)

Play or bet at or against any game which is played, conducted, dealt, or carried on for money, chips, shell, credit, or any other representative of value, or maintain or exhibit any gambling table or other instrument of gambling or gaming, or play any game prohibited by any ordinance of the city;

- (5) Swim or wade in January-Wabash Memorial Lake;
- (6) Enter the enclosed swimming pool area of January-Wabash Memorial Park or any other enclosed swimming pool area in a park during times when the pool is closed to public use, except under supervision of the director of parks and recreation or his authorized representative;
- (7) Remain or stay in any public park, with the exception of the Lang Royce, Nesbit/Newton, Dade, Robert-Superior, and Spring Valley Parks, between the hours of 11:00 p.m. and 6:00 a.m. of the following day without written authorization issued by the city. No person shall remain or stay in the Lang Royce, Nesbit/Newton, Dade, Robert Superior, and Spring Valley Parks from dusk to dawn of the following day without written authorization issued by the city. Provided, however, all designated walking trails in public parks shall remain open for use by the public between the hours of 5:00 a.m. and 11:00 p.m. For purposes of this section, "written authorization" shall be a form of approval from the director of parks and recreation, the city council or other duly-authorized city official.

(Code 1973, § 11.31(a)—(f), (h); Ord. No. 88-2326, § 1, 12-13-88; Ord. No. 91-2457, § 1, 2-26-91; Ord. No. 92-2562, § 1, 9-8-92; Ord. No. 94-2684, § 1, 2-22-94; Ord. No. 2003-3168, § 1, 1-28-03; Ord. No. 2013-3511, § 1, 1-8-13)

Sec. 30-68. - Bicycles—Manner of riding.

It shall be unlawful for a person to operate a bicycle in any public park within the City of Ferguson carelessly or recklessly or at a speed faster than is reasonably proper or in a manner so as to endanger the life, limb or property of the bicyclist or of any other person.

(Ord. No. 86-1235, § 1, 4-22-86)

Cross reference— Bicycles and motorized bicycles generally, § 44-361 et seq.

Sec. 30-69. - Regulation of bicycles in January-Wabash Memorial Park.

- (a) No person, except municipal police officers on police patrol, shall ride a bicycle in January-Wabash Memorial Park.
- (b) No person, except municipal police officers on police patrol, shall walk with, have in their possession, or place a bicycle in January-Wabash Memorial Park on July 4 of any year.

(Ord. No. 95-2774, § 1, 5-9-95; Ord. No. 2003-3168, § 1, 1-28-03)

Sec. 30-70. - Reserved.

Sec. 30-71. - Skateboards, riding prohibited.

No person shall ride a skateboard in any park in the City of Ferguson.

(Ord. No. 87-2193, § 1, 3-24-87)

Sec. 30-72. - Regulation of roller skates, roller blades, and in-line skates in the public parks within the city.

- (a) It shall be unlawful for a person to ride upon or use roller skates, roller blades, or in-line skates in any public park within the city carelessly or recklessly or at a speed faster than is reasonably proper, or in a manner so as to endanger the life, limb, or property of the rider or user or of any other person.

(b) No person shall ride upon or use roller skates, roller blades, or in-line skates in January-Wabash Memorial Park at any time.

(Ord. No. 95-2764, § 1, 3-14-95; Ord. No. 2003-3168, § 1, 1-28-03)

Secs. 30-73—30-79. - Reserved.

ARTICLE V. - FISHING REGULATIONS FOR JANUARY-WABASH MEMORIAL PARK

Sec. 30-80. - Fishing authorized; state license required.

(a) Fishing is hereby authorized in the January-Wabash Memorial Park Lake provided that the fisherman complies with all ordinances of the City of Ferguson.

(b) Any person who exercised the privilege of fishing in the January-Wabash Memorial Park Lake must have on his/her person the prescribed state permit, or evidence of exemption as authorized by state laws and the rules of the conservation commission of the State of Missouri.

(Ord. No. 94-2680, § 1, 1-25-94; Ord. No. 2003-3168, § 1, 1-28-03)

Sec. 30-81. - Daily limits.

The daily limit for fish caught in the January-Wabash Memorial Park Lake shall be as follows:

Game Fish	Daily Limit
Trout	5
Channel catfish	4
Carp	4
Bullhead catfish	<u>10</u>

Provided further, no person may have in his/her possession at any time more than twenty (20) fish.

(Ord. No. 94-2680, § 1, 1-25-94; Ord. No. 2003-3168, § 1, 1-28-03)

Sec. 30-82. - Compliance with certain rules required.

Any person fishing in the January-Wabash Memorial Park Lake shall comply with all Missouri Conservation Commission rules.

(Ord. No. 94-2680, § 1, 1-25-94; Ord. No. 2003-3168, § 1, 1-28-03)

Chapter 31 - PAWNBROKERS

ARTICLE I. - IN GENERAL

Sec. 31-1. - Definitions.

For the purpose of this chapter, the following terms, phrases, and words shall have the meanings given herein and shall apply in the interpretation and enforcement of this chapter, unless otherwise specifically stated:

Chief of police shall mean the chief of police of the City of Ferguson Police Department.

Director shall mean the director of finance for the City of Ferguson.

Month shall mean that period of time from one date in a calendar month to the corresponding date in the following calendar month, but if there is no such corresponding date, then the last date of such following month, and when computations are made for a fraction of a month, a day shall be one-thirtieth of a month.

Net assets shall mean the book value of the current assets of a person or pawnbroker less its applicable liabilities as stated in this section. Current assets include the investment made in cash, bank deposits, merchandise inventory, and loans due from customers excluding the pawn service charge. Current assets do not include the investments made in fixed assets of real estate, furniture, fixtures, or equipment; investments made in stocks, bonds, or other securities, investments made in prepaid expenses or other general intangibles. Applicable liabilities include trade or other accounts payable; accrued sales, income, or payables that are unsecured or secured in whole or part by current assets. Applicable liabilities do not include liabilities secured by assets other than current assets. Net assets must be represented by a capital investment unencumbered by any liens or other encumbrances to be subject to the claims of general creditors.

Pawnbroker shall mean any person engaged in the business of lending money on the security of pledged goods or engaged in the business of purchasing tangible personal property on condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

Pawnshop shall mean the location at which, or premises in which, a pawnbroker regularly conducts business.

Person shall mean an individual, partnership, corporation, joint venture, trust, association, or any other legal entity however organized.

Person of good moral character shall mean a person who has not been convicted of any state, federal, or municipal offense involving drugs or narcotics, robbery, burglary, theft, stealing, receiving stolen property, embezzlement, extortion, forgery, gambling, bribery, perjury, any weapons offense, or any crime of violence.

Pledged goods shall mean tangible personal property other than choses in action, securities, or printed evidence of indebtedness, which property is deposited with, or otherwise actually delivered into, the possession of a pawnbroker in the course of his business in connection with a pawn transaction.

Secured personal credit loan shall mean every loan of money made in this city, the payment of which is secured by a security interest in tangible personal property which is physically delivered into the hands of the lender at the time of the making of the loan and which is to be retained by the lender while the loan is a subsisting obligation.

(Ord. No. 93-2603, § 1, 3-9-93)

Secs. 31-2—31-9. - Reserved.

ARTICLE II. - LICENSES

Sec. 31-10. - Licenses required.

No person shall operate a pawnshop in the City of Ferguson unless such person obtains a pawnshop license issued by the director of finance of the city. A license is required for each place where pawnbroking business is transacted, and no one shall act as an agent, employee, or solicitor for any pawnbroker while such pawnbroker is engaged in such business at a place other than that specified in the license.

(Ord. No. 93-2603, § 1, 3-9-93)

Sec. 31-11. - Reserved.

Sec. 31-12. - Application for new pawnshop license.

An application for a new pawnshop license shall be under oath and shall state the full name and place of residence of the applicant, the place where the business is to be conducted, and other relevant information required by the director. If the applicant is a partnership, the application shall state the full name and address of each partner, and whether such partner is a general partner or a limited partner. If the applicant is a corporation, the application shall give the full name and address of each officer, shareholder, and director. Further, a "certificate in good standing" shall be filed with the director. The application shall be accompanied by:

- (1) An investigation fee of five hundred dollars (\$500.00) if the applicant is unlicensed at the time of applying for the pawnshop, or two hundred fifty dollars (\$250.00) if the application involves a second or additional license to an applicant previously licensed for a separate location, or involves substantially identical principals and owners of a licensed pawnshop at a separate location; and
- (2) Proof of general liability insurance in the amount of fifty thousand dollars (\$50,000); and
- (3) An annual fee of five hundred dollars (\$500.00).

(Ord. No. 93-2603, § 1, 3-9-93)

Sec. 31-13. - Transfer of existing pawnshop license; change of ownership of licensed pawnshop.

Transfer of an existing pawnshop license, or the change of ownership of a licensed pawnshop is the same as an initial application for a new pawnshop license. Licenses are personal to the licensee.

(Ord. No. 93-2603, § 1, 3-9-93)

Sec. 31-14. - Application for license.

The application form for a new license, a renewal license, transfer of an existing license, or change of ownership of a licensed pawnshop shall be on forms prescribed and provided by the director, and shall contain information sufficient to inform the director regarding the qualifications of the applicant for a license or renewal license.

(Ord. No. 93-2603, § 1, 3-9-93)

Sec. 31-15. - Same—Investigation by director.

The director shall investigate the facts contained in an application for a new pawnshop license, and shall request the assistance of the chief of police and any other person having knowledge of the facts contained in the application or who is authorized to investigate those facts.

(Ord. No. 93-2603, § 1, 3-9-93)

Sec. 31-16. - Standards for issuance.

No license shall be issued to any person who:

- (1) Is not of good moral character, or to any pawnshop employing persons who are not of good moral character; or
- (2) Makes a false statement of material facts in the application for a license or renewal license; or
- (3) Does not have net assets of at least fifty thousand dollars (\$50,000.00) readily available for use in conducting business as a pawnshop for each licensed pawnshop; or
- (4) Does not file with the director a bond satisfactory to the director in an amount of five thousand dollars (\$5,000.00) with a surety company qualified to do business in this city. The aggregate liability of such surety shall not exceed the amount stated in the bond. The bond shall run to the city for the use of the city and of any person(s) who may be a cause of action against the obligor of such bond under the provisions of this chapter. Such bond shall be conditioned that the obligor will comply with the provisions of this chapter and by all rules and regulations adopted by the director, and will pay to the city and to any such person(s) from such obligor under and by virtue of the provisions of this chapter, or any rules adopted by the director pursuant to this chapter, during the time such bond is in effect.

If the director is unable to verify that the applicant meets the net assets requirement for a licensed pawnshop, the director may require a finding, including the presentation of a current balance sheet, by an independent certified public accountant, that the accountant has reviewed the books and records of the applicant, and that the applicant meets the net assets requirement of this chapter.

(Ord. No. 93-2603, § 1, 3-9-93)

Sec. 31-17. - Exemption from requirement for new pawnshop license.

No person who is lawfully operating a pawnshop on the effective date of this chapter shall be required to obtain a license under this section in order to continue operating such pawnshop, so long as such person does not violate any other provision of Sections 367.011 to 367.060, RSMo. Such persons may continue to operate those pawnshops then in existence, but thereafter must receive annual renewal licenses even though the operation of such pawnshop might cause the number of pawnbrokers in the city to exceed the number determined by operation of section 31-18.

(Ord. No. 93-2603, § 1, 3-9-93)

Sec. 31-18. - Limitation on number of pawnbrokers in city.

Subject to the provisions of section 31-17, no license for engaging in the business of pawnbroker shall be issued when the issuance thereof would increase the number of such licenses outstanding and in force at that time to more than one (1) per each twenty thousand (20,000) inhabitants residing in the City.

(Ord. No. 93-2603, § 1, 3-9-93)

Sec. 31-19. - Subsequent license applications.

Subsequent to the first year for which a license is issued to a pawnbroker, each pawnbroker shall make a renewal application to the director. The application shall be filed by December 1 of the current

forms shall contain such information as will assist the director in determining whether conditions have changed, and whether a renewal license should be issued for the subsequent licensing year. The director may request the assistance of the chief of police or any other city employee or person having knowledge of the truth or falsity of the matters contained in the application, or who is able to investigate those matters. The annual fee for the issuance of a renewal license is five hundred dollars (\$500.00). A renewal license is required in those cases where no initial license was issued pursuant to the provisions of section 31-17.

(Ord. No. 93-2603, § 1, 3-9-93)

Sec. 31-20. - Suspension or revocation of license.

- (a) If the director believes that conditions have changed such that the holder of a pawnshop license would not still be eligible to receive a pawnbroker's license, or that the holder of the pawnshop license is in violation of this chapter or state law pertaining to pawnshops, the director may suspend the license.
- (b) If the director believes that the holder of a pawnshop license may remedy the situation, giving rise to the director's belief that conditions have changed, and has not previously been in violation of this chapter or state law pertaining to pawnshops, the director may suspend the license. If the director believes that the changed condition(s) are such that, if true, the licensee would not be able to remedy the situation in a reasonable time, or if the holder of the pawnshop license has previously been in violation of this chapter or state law pertaining to pawnshops, then the director may revoke the pawnshop license.
- (c) If the director believes that the safety, morals, or peace of residents of the City of Ferguson is immediately affected by the change in conditions, the director may suspend or revoke the license prior to a hearing, but he shall afford the licensee a hearing within five (5) days of the suspension or revocation if the licensee desires such a hearing. If the director believes that the changed condition is not of such imminent hazard to the safety, morals, or peace of the residents of the city he may have a hearing prior to his action. He shall give the licensee at least ten (10) days' notice of the hearing.
- (d) Any party aggrieved by a decision of the director shall have the right of appeal to the circuit court of St. Louis County.

(Ord. No. 93-2603, § 1, 3-9-93)

Sec. 31-21. - Issuance of license to operate pawnshop prohibited in certain areas.

- (a) No license shall be issued for the operation of a pawnshop as defined within this chapter wherein said pawnshop will be located within one thousand (1,000) feet of the property line of any church/synagogue, school, or residentially-zoned property.
- (b) No license shall be issued for the operation of a pawnshop as defined in this chapter wherein said pawnshop will be located within one thousand (1,000) feet of the property line of property on which there is located another pawnshop.

(Ord. No. 93-2622, § 1, 4-27-93)

Secs. 31-22—31-29. - Reserved.

ARTICLE III. - OPERATION OF PAWNSHOPS

Sec. 31-30. - Receipt for pledged property; contents; loss of, effect.

- (a) At the time of making any secured personal credit loan, the lender shall execute and deliver to the borrower a receipt for, and describing, the tangible personal property subjected to the security interest to secure the payment of the loan. The receipt shall contain the following:
- (1) The name and address of the pawnshop;
 - (2) The name and address of the pledgor, the pledgor's description, the driver's license number, date of birth, height, weight, sex, race or nationality, and military identification number, identification certificate number, or other official number capable of identifying the pledgor;
 - (3) The date of the transaction;
 - (4) An identification and description of the pledged goods, including serial numbers if reasonably available;
 - (5) The amount of cash advanced or credit extended to the pledgor;
 - (6) The amount of the pawn service charge;
 - (7) The total amount which must be paid to redeem the pledged goods on the maturity date;
 - (8) The maturity date of the pawn transaction; and
 - (9) A statement to the effect that the pledgor is not obligated to redeem the pledged goods, and that the pledged goods may be forfeited to the pawnbroker sixty (60) days after the specified maturity date.
- (b) The pawnbroker shall keep a register of all items pawned at each pawnshop, which register shall contain the information listed in subsection (a) of this section.
- (c) All pawnbrokers shall install a proper camera in operative condition and shall use such equipment to photograph every person, and receipts of pawn shop tickets given to such persons with all loans and with all purchases of items from persons.
- (d) All pawnbrokers shall display, in a prominent place, a notice to customers that they are required to be photographed when they pawn, sell, or offer as a part or full payment, any item to the pawnbroker.
- (e) All such photographs shall be maintained and kept by the pawnbroker for a period of at least one (1) year following the taking of the photograph, and shall be available for development, and developed by the pawnbroker upon request by the chief of police.
- (f) The register and photographs provided for herein shall at all times be kept open to the inspection of police officers duly sworn by the City of Ferguson or the State of Missouri under Chapter 590 RSMo. Every pawnbroker shall also, upon request, show and exhibit to any such officer, any article purchased, taken, or received by the pawnbroker if the item is still in the possession of the pawnbroker.
- (g) If a pawn ticket is lost, destroyed, or stolen, the pledgor may so notify the pawnbroker in writing, and receipt of such notice shall invalidate such pawn ticket, if the pledged goods have not previously been redeemed. Before delivering the pledged goods or issuing a new pawn ticket, the pawnbroker shall require the pledgor to make a written affidavit of the loss, destruction, or theft of the ticket. The pawnbroker shall record on the written statement the identifying information required, the date the statement is given, and the number of the pawn ticket lost, destroyed, or stolen. The affidavit shall be signed by a notary public appointed by the Secretary of State pursuant to Section 486.205, RSMo, to perform notarial acts in this state.

(Ord. No. 93-2603, § 1, 3-9-93)

- (a) Every secured personal credit loan shall be due and payable in lump sum thirty (30) days after the date of the loan contract, or if extended, thirty (30) days after the date of the last preceding extension of the loan, and if not so paid when due, it shall, on the next day following, be in default. The lender shall retain possession of the tangible personal property subjected to the security interest to secure payment of any secured personal credit loan for a period of sixty (60) days next following the date of default. If during the period of sixty (60) days, the borrower shall pay to the lender the principal sum of the loan, with the loan fee(s), and the interest due thereon to the date of payment, the lender shall thereupon deliver possession of the tangible property to the borrower; but if the borrower fails, during the period of sixty (60) days, to make payment, the title to the tangible personal property shall, on the day following the expiration of the period of sixty (60) days, pass to the lender, without foreclosure, and the right of redemption by the borrower shall be forever barred.
- (b) A pledgor shall have no obligation to redeem pledged goods or make any payment on a pawn transaction.
- (c) Except as otherwise provided herein, any person properly identifying himself and presenting a pawn ticket to the pawnbroker shall be presumed to be entitled to redeem the pledged goods described therein.
- (d) A pawnbroker shall not:
 - (1) Accept a pledge from a person who is under eighteen (18) years of age;
 - (2) Make any agreement requiring the personal liability of a pledgor in connection with a pawn transaction;
 - (3) Accept any waiver, in writing or otherwise, of any right or protection accorded a pledgor under this chapter or other law;
 - (4) Fail to exercise reasonable care to protect pledged goods from loss or damage;
 - (5) Fail to return pledged goods to a pledgor upon payment of the full amount due the pawnbroker on the pawn transaction. In the event such pledged goods are lost or damaged as a result of a pawnbroker negligence while in the possession of the pawnbroker, it shall be the responsibility of the pawnbroker to replace the lost or damaged goods with like kind of merchandise. Lenders shall not be responsible for loss of pledged articles due to acts of God, acts of war, or riots. Each lender shall employ, if reasonably available in his area, a reputable company for the purpose of fire and theft security;
 - (6) Purchase or take in trade used or second hand personal property unless a record is established that contains:
 - a. The name, address, physical description, and the driver's license number, military identification number, identification certificate number, or other official number capable of identifying the seller;
 - b. A complete description of the property, including the serial number, if reasonably available, or other identifying characteristic; and
 - c. A signed document from the seller providing that the seller has the right to sell the property.

(Ord. No. 93-2603, § 1, 3-9-93)

Sec. 31-32. - Pawnshop not to be used as residence.

No pawnbroker or member of the pawnbroker's family, or employee, or any other person shall be permitted to live in a pawnshop or in rooms connecting therewith.

(Ord. No. 93-2603, § 1, 3-9-93)

Sec. 31-33. - Hours of operation.

No pawn shop shall be open for business or receive as pawned, pledged, or purchased, on any condition whatsoever, any article of personal property or other valuable thing between the hours of 8:00 p.m. on any day and 7:00 a.m. on the following day.

(Ord. No. 93-2603, § 1, 3-9-93)

Sec. 31-34. - Notice of goods to be shipped out of town.

Every pawnbroker shall give the chief of police notice of all pawned goods to be shipped out of town, which notice shall state the name of the pledgee and the destination and date of shipment. Such goods shall not be shipped for at least seven (7) days after delivery of the copy of the register to the chief of police.

(Ord. No. 93-2603, § 1, 3-9-93)

Sec. 31-35. - Adequate books and records required.

Each licensee shall keep, consistent with accepted accounting practices, adequate books and records relating to the licensee's pawn transactions, which books and records shall be preserved for a period of at least two (2) years from the date of the last transaction recorded therein.

(Ord. No. 93-2603, § 1, 3-9-93)

Sec. 31-36. - Dealing in weapons prohibited.

No licensed pawnbroker or any other person acting as a pawnbroker or an agent, employee, or solicitor for any pawnbroker under the provisions of this chapter shall receive as security, pledge, or pawn, or purchase, sell, or loan any kind of firearm, revolver, pistol, rifle, bowie knife, spring back knife, razor, metal knucks, billy, sword cane, dirk, dagger, or other similar weapon.

(Ord. No. 93-2632, § 1, 5-25-93)

Secs. 31-37—31-39. - Reserved.

ARTICLE IV. - RULES AND REGULATIONS

Sec. 31-40. - Rules.

The director may issue such rules and regulations as he deems necessary to implement this chapter and the policies contained herein.

(Ord. No. 93-2603, § 1, 3-9-93)

Secs. 31-41—31-49. - Reserved.

ARTICLE V. - PENALTIES

Sec. 31-50. - Penalty and other remedies.

Any person who violates any provision of this chapter is guilty of a violation of this chapter and may be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the city jail for not more than four (4) months, or by both such fine and imprisonment.

(Ord. No. 93-2603, § 1, 3-9-93)

Chapter 32 - PEDDLERS AND SOLICITORS^[1]

Footnotes:

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Cross reference— *Solicitations in public parks, § 30-64; streets, sidewalks and other public places, Ch. 40.*

State Law reference— *Peddlers, RSMo 150.470 et seq.*

Sec. 32-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

House shall mean any type residential unit, whether it be a single family, duplex or multi-family building. Each living unit of a duplex or multi-family building shall be considered a separate house for purposes of this chapter.

House to house shall mean not only each house in succession in any given area or location, but shall also include any random or other method of selection of residential units in the city.

Peddler shall mean any person who goes about from house to house seeking to sell any goods, wares or merchandise to the occupants thereof for immediate delivery.

Solicitor shall mean any person who goes about from house to house seeking to receive orders for the sale of any goods, wares or merchandise to the occupants thereof for future delivery.

(Code 1973, § 51.39(3))

State Law reference— Peddler defined, RSMo 150.470.

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 32-2. - Permit required—Generally; exception.

No person shall engage in the business of a peddler or solicitor in the city without first obtaining a permit therefor from the police department. No permit will be required of any person holding a valid peddler's or solicitor's license from another city; provided, however, that any such previously licensed peddler or solicitor shall still file the information required in section 32-3 with the police department before engaging in peddling or soliciting in the city.

Sec. 32-3. - Same—Information required.

- (a) Before any person may obtain a peddler's or solicitor's permit, as provided in section 32-2, such person shall furnish the chief of police with the following written information in duplicate:
- (1) The applicant's full name, house address, home phone number, business address and business phone number, employer's name, employer's address and phone number, unless self-employed;
 - (2) The name and description of each item or product to be sold or solicited for sale, whether product to be sold is to be delivered immediately or at a later date, if the sale of a product is to be solicited, whether product is to be mailed to the purchaser or to be delivered by the applicant or some other person and if product is to be mailed, its originating point.

- (b) After the information required by subsection (a) has been filed in duplicate with the chief of police, the police department shall retain the original and the duplicate thereof shall be taken by the applicant to the office of the director of finance to determine if the applicant is required to obtain an occupational license under section 42-22.

(Code 1973, § 51.39(1))

Sec. 32-4. - Same—False statements.

Any person who shall make a false statement with reference to the information to be provided to the police department as provided in section 32-3 shall, upon conviction thereof, be guilty of an offense.

(Code 1973, § 51.39(1), (4))

Sec. 32-5. - Permitted hours.

No person shall engage in any peddling or soliciting in the city at any time other than between the hours of 9:00 a.m. and 9:00 p.m., Monday through Saturday of each week.

(Code 1973, § 51.39(2))

Sec. 32-6. - Soliciting funds on public streets.

- (a) *Permit required; contents.* It shall be unlawful for any person to solicit funds for any purpose upon any public street or at any intersection with a public street unless said person or persons have first made application for a permit therefor to the chief of police, setting forth the purposes for which the solicitation is to be made, the purpose for which the funds are to be used, the number of persons who may participate in the solicitation and their addresses, whether or not any such persons will be under the age of eighteen (18) years and the date and times during which such solicitations will be made.
- (b) *Issuance, revocation.* The chief of police shall not issue a permit for such solicitation if less than seventy-five (75) percent of the applicants and solicitors are not residents of the City of Ferguson, if any or all of the solicitors are under the age of eighteen (18) years or if any other condition set forth in this section is not complied with. The chief of police shall revoke such permit if after issuance it is determined by the chief of police that the conditions of such permit are being violated.
- (c) *Frequency of issuance.* No person, group or persons or representative of any organization or group shall be granted more than one (1) permit within any twelve-month period for such solicitations.
- (d) *Soliciting at intersections.* Persons soliciting funds at intersections where the traffic is controlled by a traffic-control device shall conduct such solicitations only while the vehicles are stopped.
- (e) *Liability of city.* Each applicant and solicitor shall, on behalf of himself and on behalf of any organization which he represents, agree to hold the city harmless for any accident, injury or liability that may be incurred by reason of such use of the public street, and shall sign an affidavit releasing the city of all such responsibility before any permit shall be issued.

(Code 1973, § 51.40)

Sec. 32-7. - Exhibiting permits.

Any person who is a peddler or solicitor as defined in this chapter shall, upon request, exhibit a valid peddler's or solicitor's permit as required by the chapter.

(Ord. No. 88-2271, § 1, 3-8-88)

Chapter 33 - POLICE^[1]

Footnotes:

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Cross reference— *Administration, Ch. 2; marshal of municipal court, § 2-216; alcoholic beverages, Ch. 4; civil disasters and emergency, Ch. 10; court, Ch. 13; fire prevention and protection, Ch. 17; massage salons, bath houses and health salons, Ch. 26; offenses, Ch. 29; police department canine protection, § 29-12; traffic and motor vehicles, Ch. 44; police alarm system, § 45-39.*

ARTICLE I. - IN GENERAL

Secs. 33-1—33-15. - Reserved.

ARTICLE II. - POLICE DEPARTMENT^[2]

Footnotes:

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Cross reference— *Departments, § 2-201 et seq.; police department, § 2-251; duties of police to report dangerous buildings, § 7-204; obedience to police department officials, § 44-4; directing traffic by police department officials, § 44-34; traffic accidents, § 44-456 et seq.*

State Law reference— *City police and fire departments generally, RSMo Ch. 85.*

Sec. 33-16. - Created; commanding officer.

There is hereby created a department of the city government to be known as the police department, the commanding officer of which shall be the chief of police.

(Code 1973, § 6.01)

Cross reference— Officers and employees generally, § 2-46.

Sec. 33-17. - Composition.

The police department shall consist of a chief of police, and such inferior police officers as may be deemed necessary for the proper conduct of the duties of the department, including such number of probationers as may be authorized from time to time. Persons other than those enumerated whose services are employed within the police department or who work under the direction of the chief of police, shall not become members of such department.

(Code 1973, § 6.01)

Sec. 33-18. - Powers and duties of chief of police.

- (a) *Command of department.* The chief of police shall have general supervision and control of the police department, including the enforcement of discipline among the members thereof and the instruction of the members in their duties.
- (b) *Accounts.* The chief of police shall compile such account of money collected by or in his office as may be required by the director of finance, and shall report and pay over all money collected by him to the director of finance.
- (c) *City jail.* The chief of police shall have charge of the city jail and shall be responsible for the proper care and condition thereof.
- (d)

Complaints; execution of orders. The chief of police shall prepare complaints in cases in the municipal court and shall execute and return all papers and orders issued by the municipal court or any department of the city under any ordinance or law.

- (e) *Additional duties.* The chief of police shall perform all additional duties required of him by the city manager or the council and such other duties as may be necessary to conserve the peace and welfare of the city and its inhabitants.

(Code 1973, § 6.02(a)—(d), (f))

Cross reference— Chief of police to act as marshal of municipal court, § 2-216.

Sec. 33-19. - Assistant chief of police.

The assistant chief of police shall be second in command of the police force. He shall perform the duties of the chief of police in case of his absence, illness or death. He shall perform such other duties as shall be prescribed by the chief of police. In case of a vacancy in the office of the chief of police, the assistant chief of police shall become the acting chief of police, and shall serve as such until such vacancy is filled by the city manager. As acting chief of police, he shall have the full authority of the chief of police.

(Code 1973, § 6.03)

Cross reference— Officers and employees generally, § 2-48.

Sec. 33-20. - Oath and bond of police officers.

Before entering into their duties, each appointee to the police department shall take the oath of office required of other officers, which may be administered by the mayor or the city clerk, and shall file a bond in an amount as is required by the council, with security to be approved by the city manager. Such bond shall be conditioned upon the faithful performance of the duties required of him in his office by the laws of the state, this Code and the other ordinances of the city.

(Code 1973, § 6.04)

Cross reference— Official bonds, § 11.4.

Sec. 33-21. - Duties of police officers.

The police officers of the city shall see that all laws of the United States, the state, and the provisions of this Code and the other ordinances of the city are observed. They shall perform such services as they may be required to perform by the city manager or the council.

(Code 1973, § 6.06)

Sec. 33-22. - Powers of arrest.

- (a) Every police officer in this city may arrest on view, and without a warrant, any person he sees violating or who he has reasonable grounds to believe has violated any law of this state, including a misdemeanor, or has violated any section of this Code or other ordinance of the city over which the officer has jurisdiction.
- (b) The power of arrest authorized by this section is in addition to all other powers conferred upon police officers, and shall not be construed so as to limit or restrict any other power of a police officer.
- (c) In addition to the powers of arrest authorized by the Municipal Code of the City of Ferguson, Ferguson police officers shall have the authority to respond to an emergency situation outside the boundaries of the city pursuant to section 70.920 of the Revised Statutes of Missouri and all

subsections thereto. Peace and law enforcement officers of other political subdivisions shall have the authority to respond to emergency situations in the city as provided in section 70.820 of the Revised Statutes of Missouri and all subsections thereto.

(Code 1973, § 6.07; Ord. No. 98-2972, § 1, 1-13-98)

State Law reference— Similar provisions, RSMo 544.216.

Sec. 33-23. - Special policemen.

- (a) *Appointment, compensation.* The chief of police, with the approval of the city manager, shall have authority to appoint special policemen in such number not to exceed fifteen (15) as he may deem necessary from time to time, and shall designate the term of such special policemen and the compensation.
- (b) *Applications.* Applications for appointments as special policemen shall be made to the chief of police, who shall make an investigation of the character and fitness of the applicant and the necessity or reasons for his appointment.
- (c) *Powers and duties.* Special police shall have the power to serve and execute warrants, subpoenas, writs, and other process and shall have the power of arrest as provided by law, but only when they have been called to duty by the chief of police of the city or by someone designated by him to call special officers to duty.

(Code 1973, § 6.05)

Chapter 34 - REDEVELOPMENT PROCEDURES^[1]

Footnotes:

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Editor's note—Ord. No. 2010-3435, § 1, adopted Aug. 10, 2010, amended Ch. 34 in its entirety to read as set out herein. The former Ch. 34, §§ 34-1—34-20 pertained to similar subject matter and derived from Ord. No. 96-2841, § 1, adopted June 11, 1995.

Cross reference— Floodplain management, Ch. 18; mobile homes and trailers, Ch. 27; streets, sidewalks and other places, Ch. 40; subdivision regulations, Ch. 41; utilities, Ch. 45; zoning, Ch. 49.

Sec. 34-1. - Definitions.

The following terms, whenever used or referred to in this chapter shall, unless a different intent clearly appears from the context, be construed to have the following meanings:

Area shall mean such portion(s) of the city as the council has found or shall find to be a blighted area so that the clearance, replanning, rehabilitation, or reconstruction thereof is necessary to effectuate the redevelopment thereof.

Blighted area shall mean that portion of the city within which the council determines that by reason of age, obsolescence, inadequate or outmoded design, or physical deterioration, existing properties and improvements have become economic and social liabilities, and that such conditions are conducive to ill health, transmission of disease, crime, or inability to pay reasonable taxes.

Blighting study shall mean a written report including, but not limited to, the following:

- (1) Evidence that the area in question constitutes a blighted area;

- (2) Identification of each parcel of real property within the redevelopment area and a factual description of each parcel including but not limited to the nature and age of any improvements thereon, and the physical condition of each such parcel and any improvements thereon;
- (3) A title search by an agency of a title insurance company licensed to do business in the state showing all persons having an interest of record of any type or nature whatsoever in the real property in the redevelopment area, together with the full name and address of each such person. Said title search shall be dated not more than sixty (60) days prior to the date on which it is submitted to the director, where it is submitted by a person or corporation other than the city. If the city performs the blighting study pursuant to section 34-2 below, then the title search shall be dated not less than sixty (60) days before the blighting study is presented to the commission.
- (4) A list of all persons lawfully occupying any portion of the area in question.

City shall mean the City of Ferguson, Missouri.

City clerk shall mean the city clerk of the City of Ferguson, Missouri.

City manager shall mean the city manager of the City of Ferguson, Missouri.

Commission shall mean the plan commission of the City of Ferguson, Missouri.

Corporation shall mean an urban redevelopment corporation organized under and pursuant to the provisions of the Urban Redevelopment Corporations Law, as described below, together with its successors and assigns.

Council shall mean the city council of the City of Ferguson, Missouri.

Counsel shall mean the city attorney of the City of Ferguson, Missouri.

Public works director shall mean the individual designated by the city manager to act as the director of public works of the City of Ferguson, Missouri.

Designated developer shall mean the person who submits a development plan approved by the council, or the successors and assigns thereof.

Development contract shall mean that contract or agreement entered into between the city and a corporation pursuant to an approved development plan.

Development costs shall mean an amount equal to the actual cost of redevelopment of the redevelopment area. Such costs shall include, but not be limited to, the reasonable expense of planning, including preliminary studies and surveys; professional services, interest during construction; the actual cost of the acquisition of the real property or any part thereof whether acquired partly or wholly in exchange for cash, securities, or otherwise; the actual cost of environmental remediation, if any; the actual cost of demolition of existing structures, if any; the actual cost of utilities, landscaping, and roadways; the actual cost of construction, equipping, and furnishing of buildings and improvements including professional fees; the actual costs of the reconstruction, remodeling, or initial repair of existing buildings and improvements; reasonable management and operations costs until the redevelopment is ready for use; and the actual cost of improving those portions of the redevelopment area which are to remain as

open spaces or which are to be used as amenities; together with such additions to development costs as shall equal the actual cost of additions to or changes in the redevelopment project in accordance with the original development plan or after approved changes therein or amendments thereto.

Development plan shall mean a plan, together with the amendments thereto, for the redevelopment of all or any part of an area, which is approved by the council, by chapter.

Director shall mean the code enforcement director of the City of Ferguson, Missouri.

Mayor shall mean the mayor of the City of Ferguson, Missouri.

Person shall mean an individual, firm, partnership, joint venture, association, corporation, whether organized for profit or not (except an urban redevelopment corporation organized pursuant to the provisions of the Urban Redevelopment Corporation Law), estate, trust, business trust, receiver or trustee appointed by any state or federal court, syndicate, or any other group or combination acting as a unit, and shall include the male as well as the female gender and the plural as well as the singular number.

Real property shall include lands, buildings, improvements, and any and all easements, franchises and hereditaments, incorporeal or corporeal, and every estate, interest, privilege, easement, franchise and right therein or appurtenant thereto, legal or equitable, including restrictions of record, created by plat, covenant or otherwise, rights-of-way, and terms for years.

Redevelopment shall mean the clearance, replanning, reconstruction or rehabilitation of an area, in whole or in part, and the provision for such industrial, commercial, residential or public structures and spaces as may be appropriate, including recreational and other facilities incidental or appurtenant thereto.

Redevelopment area is that portion of an area to which a development plan applies.

Redevelopment project shall mean a specific work or improvement to effectuate all or any part of a development plan.

Urban Redevelopment Corporations Law shall mean Chapter 353, RSMo 1986, as amended.

(Ord. No. 2010-3435, § 1, 8-10-10)

Sec. 34-2. - Invitations to submit proposed development plans; publication of notice.

Proposed development plans for any area within the city may be submitted at anytime by the owner(s) of record or under contract of at least eighty (80) percent of the real property within the proposed area. In any other case, proposed development plans for any area within the city may only be submitted in response to an invitation for such proposals issued by the council. The city may commission its own blighting study prior to publication of an invitation for proposals to facilitate the redevelopment of the area described in such blighting study. If the city desires to develop an area, the council shall direct the city clerk to publish a notice in a paper of general circulation inviting, and may otherwise request the submission of proposed development plans for the redevelopment of a redevelopment area. To be considered by the council as herein provided, a proposed development plan must be submitted in conformance with this chapter and within the time period established by the city manager in writing for such submission, which time period shall not be less than thirty (30) days nor more than ninety (90) days

following the first publication of such notice. If the council rejects all proposed development plans, or if none are submitted, the council may direct the city clerk to publish notice again and the period for submission of proposed development plans shall begin anew.

(Ord. No. 2010-3435, § 1, 8-10-10)

Sec. 34-3. - Procedure for submission of development plan.

Any person or corporation submitting a proposed development plan for the redevelopment of a development area shall file thirty (30) complete copies of such plan and thirty (30) copies of the blighting study with the city manager. Simultaneously with such items, a cashier's check shall be submitted in the amount of five hundred dollars (\$500.00) to pay for the costs incurred in publishing notices of public hearings. If the actual publication costs exceed this amount, then a proponent of the proposed development plan shall pay the additional amount; if the actual costs are less, then the balance shall be refunded. If two (2) or more proposed development plans are submitted, the publication costs (or refunds thereof) described herein, shall be evenly divided among the proponents.

(Ord. No. 2010-3435, § 1, 8-10-10)

Sec. 34-4. - Development plan contents.

A proposed development plan shall contain the following information and data:

- (1) *Legal description.* A legal description of the redevelopment area by metes and bounds or other definite designation;
- (2) *Design plan.* A general description and preliminary design plan of each proposed redevelopment project, with plans, a narrative, schematic drawings, and elevations showing or describing the general location of structures, general height, size, and scale of structures, proposed land use, materials, general landscaping, and traffic circulation;
- (3) *Project phases.* A statement of the various phases, if more than one (1) is intended, by which each redevelopment project is proposed to be constructed or undertaken, and the approximate deadline for the commencement and completion of each phase, together with a legal description, or other definite designation, of the real property to be included in each phase;
- (4) *Unit specification; availability.* A statement of the character, type, and quality of construction and, when applicable, approximate number of units, the square footage of the various units, approximate rent or sales price, as the case may be, and approximate date of availability of the proposed units to be offered during the construction by each phase, if at all, or upon completion of each redevelopment project;
- (5) *Property to be demolished.* A statement of the existing buildings or improvements in the redevelopment area proposed to be demolished, in whole or in part, if at all, and an estimate of the timing of such demolition;
- (6) *Building rehabilitation.* A statement of existing buildings to remain, if any, the proposed improvements to each such building to remain and the approximate period of time during which such improvements, repairs, or alterations are to be made;
- (7) *New construction.* A statement of the general type, size, number, character, and materials of each new industrial, commercial, residential, or other building or improvement to be erected or made and the estimate of the timing of such construction;

(8)

Open space and other amenities. A statement of those portions, if any, of the redevelopment area which may be permitted or will be required to be left as open space or other amenities to the redevelopment project, the use of each such space and the manner in which it will be improved and maintained, if at all;

- (9) *Property for public agencies or political subdivisions.* A statement of those portions, if any, of the redevelopment area which are proposed to be sold, donated, exchanged, or leased to any public agency or political subdivision of the federal, state, or local government, and an outline of the terms of such proposed sale, donation, exchange, or lease;
- (10) *Zoning changes.* A statement of the proposed changes, if any, in zoning chapter or map necessary or desirable for the redevelopment project and its protection against blighting influences;
- (11) *Street changes.* A statement of the proposed changes in streets or street levels and proposed street closings within, adjacent to, or in the proximity of the redevelopment area, including, but not limited to, any changes proposed changing streets from public to private streets or from private to public streets, if any;
- (12) *Utility changes.* A statement of the changes, if any, which will be required in utility sources to accommodate each redevelopment project and changes, if any, in utility lines, easements, or locations;
- (13) *Tax abatement.* A statement describing:
 - a. The proposed tax abatement, if any, for the corporation undertaking the redevelopment project and the reasons and justification for such requested tax abatement, and any payments in lieu of taxes;
 - b. The assessed valuation of the land and the improvements thereon, respectively, before development;
 - c. The estimated assessed valuation of the land and the improvements thereon, respectively, after redevelopment;
 - d. The statement that, but for the tax abatement, the redevelopment project cannot be undertaken, and documentation in support thereof;
 - e. The impact such tax abatement will have on each political subdivision whose boundaries include any portion of the redevelopment area, including an estimate of the amount of ad valorem revenues to be affected by the grant of tax abatement; and
 - f. The conditions upon which tax abatement, if any, will pass to or inure to the benefit of a subsequent owner of the redevelopment project;
- (14) *Property acquisition; eminent domain.* A statement describing the status of ownership of the real property within the proposed redevelopment area and a statement giving the legal description of the real property or interest in the real property, if any, proposed to be acquired by the city on behalf of the corporation, the terms and conditions for such acquisition, and the reasons why the aid of the city is sought for this purpose;
- (15) *Financing.* A detailed statement of the proposed method of financing the redevelopment project which shall set forth the estimated development costs of the redevelopment project and the proposed sources of funds, debt, and equity to meet such estimated costs; a signed letter of commitment from the financing entity evidencing that construction financing has been acquired for the redevelopment project (which letter may be conditioned upon and subject to completion

the development contract, and such other standard conditions as are found in construction financing commitment letters); a detailed statement of the projected gross revenues and all projected expenses of the redevelopment project during the first five (5) years in which such project is in operation; and the assurances, including performance bonds, if any, to be given to the city by the corporation and its affiliates for the corporation's performance of its obligations;

- (16) *Management.* A list of the persons proposed to be active in or associated with the management of the redevelopment project during the period of at least one (1) year from the date of approval of the development plan and a list of the officers, directors, and principal stockholders of the corporation;
- (17) *Public property.* A statement listing any real property in the redevelopment area in public use or belonging to the city, county, state, or any political subdivision thereof, together with a statement that the consent of such entity, other than city, has been obtained for the acquisition of such property if such property is to be acquired;
- (18) *Relocation.* A statement of the proposed plan for the relocation of those persons who will be displaced, if any, by the redevelopment project, the estimated cost thereof, and a commitment to pay said relocation cost; and a statement as to whether the relocation assistance described herein is mandated under any federal or state law;
- (19) *Qualifications.* A statement detailing the experience and qualifications of the person or corporation submitting the proposed development plan and proposed to be actively involved in the overall direction and implementation of the redevelopment project, including any officer, director, or majority shareholder thereof. Such statement should include, but not be limited to, information as to whether the applicant, or any officer, director, or majority shareholder thereof has been declared a bankrupt, voluntarily or involuntarily, or has been involved in any judicial or administrative proceeding in the preceding five (5) years;
- (20) *Evidence of good standing.* If the applicant is not an individual, evidence that the person or corporation submitting the proposed development plan is lawfully organized and is in good standing under the laws of the state;
- (21) *Non-collusive affidavit.* An affidavit executed by the person or corporation submitting the development plan, in form to be furnished by the director, stating that in submitting its proposed development plan the person or corporation has not colluded or conspired with any other proponent; and
- (22) *Other information.* Such other statements, exhibits or documentation as may be deemed relevant by the corporation, the city manager, or the council.

(Ord. No. 2010-3435, § 1, 8-10-10)

Sec. 34-5. - Review of proposed development plan by city manager.

Promptly upon the filing of a development plan, the city clerk shall distribute copies thereof the mayor, council, city manager and counsel. The city manager may request in writing from the corporation additional information relating to any facet of the proposed development plan. In the event the corporation fails to supply the requested information within fifteen (15) days from the date of the request, the corporation's proposed development plan may be disqualified from further consideration, provided however, that upon request of the corporation, additional time may be granted by the city manager. The city manager shall review the development plan to determine whether it complies with the requirements of this ordinance and the master plan for the proposed area. In the event that the development plan fails

to comply with the terms of this ordinance, the city manager shall notify the corporation in writing of the rejection of the development plan and shall state the reasons for such rejection. If the city manager determines that the development plan complies with the requirements of this ordinance and the master plan, he shall notify the council, which may then direct the city clerk to proceed with publication as described in section 34-6 hereto. If the development plan fails to conform to the master plan, the city may consider an amendment to the master plan prior to or concurrently with approval of a development plan. The council may, in its discretion, waive any irregularity or omission in any proposed development plan at any time after the filing thereof (including the time after approval of a development plan).

(Ord. No. 2010-3435, § 1, 8-10-10)

Sec. 34-6. - Public hearing.

- (a) After the final date for submission of proposed development plans, and if one (1) or more proposed development plans have been submitted, the city clerk shall publish notice in a paper of general circulation notifying all interested parties in the proposed development plan(s) that a public hearing will be held on a date and time certain by the council, provided that the public hearing shall not be held less than fifteen (15) days following publication of the notice provided for in this subsection.
- (b) In the event a proposed development plan provides for tax abatement or exemption authorized by the Urban Redevelopment Corporations Law, the city shall furnish each political subdivision whose boundaries for ad valorem taxation purposes include any portion of the real property to be affected by such tax abatement or exemption with a written statement of the impact that such tax abatement or exemption will have on the ad valorem taxes of such political subdivision and written notice of the hearing to be held as provided for in subsection (a) above. The written statement and notice required by this subsection shall be mailed to each political subdivision by registered or certified mail, postage prepaid, return receipt requested, at least fifteen (15) days prior to the hearing and shall include, but need not be limited to, an estimate of the amount of ad valorem tax revenues of each political subdivision affected by the abatement or exemption based upon the estimated assessed valuation of the real property involved as such property would exist before and after it is developed. At the public hearing all political subdivisions shall have the right to be heard on such grant of tax abatement or exemption.
- (c) The party submitting the proposed development plan shall give written notice of the hearing at least fifteen (15) days before the date of the hearing to all persons having a property interest of record, of any type or nature whatsoever, in the area covered by the proposed development plan, and each occupant in said area. Said notice shall be given to each such person by certified United States mail, postage prepaid, addressed to the above persons at their proper address, if known. If the corporation, after having made a diligent effort, is unable to obtain information as to the name of any occupant, the notice shall be sent by regular United States mail, postage prepaid, addressed to "Occupant" at the address, including apartment, unit, or suite number, if any, within the area covered by the proposed development plan. A certification that said notice has been given to such persons in the manner specified shall be filed with the commission not less than five (5) days prior to the date of the public hearing on the development plan. At the public hearing, all persons shall have the right to be heard.
- (d) Only those proposed development plans filed with the city clerk as set forth in this section shall be considered by the council.
- (e) Following the public hearing, the council may make such other investigations as it deems necessary

(Ord. No. 2010-3435, § 1, 8-10-10)

Sec. 34-7. - Evaluation by the commission.

- (a) Prior to the public hearing described in section 34-6, the commission shall review the proposed development plan as submitted and forward to the council a recommendation on the development plan, which recommendation shall address, at a minimum, each of the following:
 - (1) Compliance with the city's master plan as the same may be amended or revised from time to time;
 - (2) Sufficiency of size to allow redevelopment of the area in an efficient and economically satisfactory manner;
 - (3) Practicality of the proposed development plan;
 - (4) Adequacy of public facilities including, but not limited to, schools, fire protection, water, sewer, police, transportation, parks, playgrounds, and recreation, considering current facilities and those proposed for service concurrent with the redevelopment project; and
 - (5) Appropriateness of any proposed changes to zoning chapter or map, vacation or closing of streets and alleys, or the construction of streets and alleys.
- (b) The commission will review and provide its recommendations on any proposed amendments to an approved development plan prior to the public hearing held on the amendment, or if no public hearing is required, prior to consideration by the council.

(Ord. No. 2010-3435, § 1, 8-10-10)

Sec. 34-8. - Determination by the council.

- (a) After receipt of the proposed development plan and authorization by the city manager, the city clerk shall cause notice of a public hearing to be given as provided in section 34-6 above.
- (b) The council shall request in writing and receive written clarification of any proposed development plan.
- (c) Following the public hearing, the council shall consider the merits of the proposed development plan(s) and, in its discretion (i) by ordinance, approve a development plan as proposed; (ii) by ordinance, approve a development plan with modifications and conditions; or (iii) by resolution, reject a proposed development plan.
- (d) The ordinance approving a development plan shall include, but not be limited to, the following:
 - (1) A finding that the area included within a development plan is a blighted area and that the clearance, redevelopment, replanning, rehabilitation, or reconstruction thereof is necessary and in the best interest of the city and its citizens;
 - (2) If the development plan calls for the exercise of eminent domain, the finding and declaration that the area has designated on a master plan of the city as a redevelopment area, and that the exercise of the power of eminent domain by the city is necessary to accomplish the purposes of the redevelopment project;
 - (3) That approval of the development plan and construction of the redevelopment project is necessary for the preservation of the public peace, property, health, safety, morals and welfare;
 - (4) If applicable, the finding and declaration as to whether the development of the redevelopment area, or any portion thereof, in accordance with the development plan, is not possible but for the availability of tax abatement pursuant to the Urban Redevelopment Corporations Law and, if appropriate, the amount and duration of such tax abatement;

- (5) Authority for the city manager to enter into a contract on behalf of the city with the designated developer;
- (6) A duration of time within which all real property in the redevelopment area must be acquired, which may include acquisition by phases, and provision for the expiration of development rights and tax abatement in the event of the failure of the designated developer to acquire ownership of the real property in the redevelopment area within time limits as specified;
- (7) A provision limiting the use of the redevelopment area to that use described in the approved development plan for a period of years, but not less than a period equal in length to the number of years for which tax abatement or exemption has been granted, if applicable; and
- (8) Such other matters as may be deemed relevant by the council, including, but not limited to, liquidated damages and the amount of performance and payment bonds, if any.

(Ord. No. 2010-3435, § 1, 8-10-10)

Sec. 34-9. - Amendments to approved development plans.

Any development plan approved by ordinance may be amended from time to time, subject to the notice and hearing requirements set forth in section 34-6. The city manager and the commission shall review any proposed amendments, and make its recommendation accordingly to the council. No such amendment shall be reviewed by the city manager unless and until an application for amendment has been filed with the city clerk by the designated developer containing those portions of the statements and information required by section 34-4 above, that are relevant to the proposed amendment, and unless and until the council shall make the determinations required by section 34-8 relevant to the proposed amendment.

(Ord. No. 2010-3435, § 1, 8-10-10)

Sec. 34-10. - Tax agreement.

Notwithstanding any other provision of law to the contrary, payments in lieu of taxes may be imposed by contract between the city and the corporation which receives tax abatement on real property pursuant to the Urban Redevelopment Corporations Law. Such payment shall be made to the collector of revenue of St. Louis County by December 31 of each year that payments are due. The council shall furnish the collector with a copy of such contract requiring payment in lieu of taxes. The collector shall allocate all revenues received from such payment in lieu of taxes among all taxing authorities whose property tax revenues are affected by the exemption or abatement on the same pro rata basis and in the same manner as the ad valorem property tax revenues received by each taxing authority from such property in the year such payments are due.

(Ord. No. 2010-3435, § 1, 8-10-10)

Sec. 34-11. - Acceptance by corporation.

- (a) Upon enactment into law of an ordinance approving a development plan, the city shall enter into a development contract with the corporation pursuant to the terms and conditions set forth in this chapter and the ordinance approving the development plan. The corporation shall not avail itself of any of the benefits of the ordinance approving the development plan until it has duly executed the development contract.

(b)

A copy of the development contract between the city and the corporation for carrying out the development plan together with a copy of the ordinance approving the development plan shall be recorded by the corporation in the office of the recorder of deeds of St. Louis County and proof of such recording shall be filed with the city clerk. True copies of the development plan approved by the council by ordinance shall be retained with the authorizing ordinance by the city clerk.

(Ord. No. 2010-3435, § 1, 8-10-10)

Sec. 34-12. - Compliance with other city ordinances.

- (a) Prior to the commencement of an approved redevelopment project, the corporation shall comply with all other ordinances including, but not limited to, those requiring review by the commission and the architectural board of the city.
- (b) The corporation shall pay, when due and payable, all such fees, licenses, and other charges required by the ordinances of the city applicable to such corporation or the redevelopment project to be undertaken.

(Ord. No. 2010-3435, § 1, 8-10-10)

Sec. 34-13. - Monitoring of compliance, time extensions and certification of completion.

- (a) *Building permits.* In the event a development plan for redevelopment area is approved by ordinance, then the building commissioner shall not issue a building permit to the corporation, its successors and assigns, for construction in the redevelopment area unless the building plans are found by the building commissioner to be in substantial compliance with the approved development plan, as amended, modified, or changed by ordinance, for the period during which the development plan is in effect.
- (b) *Investigation.* It shall be the duty of the director, after the development plan has been approved by the council, to investigate and determine from time to time but not less often than quarterly during construction of the redevelopment project, whether the corporation undertaking such development plan is fully complying with the provisions thereof and its development contract with the city, in the manner and at the times fixed therein for the performance of the various phases thereof.
- (c) *Reports.* It shall also be the duty of the director to make reports from time to time but not less often than quarterly during the construction of the redevelopment project to the city manager, who shall then submit them to the mayor and the council, regarding the redevelopment project approved for the redevelopment area, which reports shall include, but not be limited to, information as to compliance with the provisions of this chapter by any corporation operating hereunder.
- (d) *Time extension.* The council may, for good cause shown, grant to a corporation implementing an approved development plan an extension of time in which to complete the redevelopment project, or any phase, stage, or portion thereof.
- (e) *Recommendation of certification.*
 - (1) When a corporation implementing an approved development plan has completed the redevelopment project, or any phase thereof, in accordance with the provisions of the development plan, the director, upon the written request of such corporation delivered by certified U.S. mail, return receipt requested, shall conduct an investigation and, if the director determines that the redevelopment project, or such phase thereof, has been so completed, the director shall recommend to the city manager, the mayor and the council that a certificate of full compliance in recordable form be issued to such corporation for such phase or for the entire redevelopment project, as the case may be.

- (2) In the event that, thereafter, the council determines that the redevelopment project or any phase thereof has not been completed, then the council shall transmit notice by certified mail, return receipt requested, to the corporation stating the reasons for the finding that there has not been substantial compliance. Provided, however, failure to so mail notice to the corporation within thirty (30) days after receipt of said written request from the corporation shall be deemed a certification of completion.
- (3) The investigations and reports of the director required by subsections (b) and (c) of this section shall not be required or made with respect to the redevelopment project or to any approved phase thereof subsequent to the date of issuance of such certificate of completion with respect to such redevelopment project or phase thereof.

(Ord. No. 2010-3435, § 1, 8-10-10)

Sec. 34-14. - Financial reporting.

A corporation, the development plan of which provides for tax abatement and which desires to obtain and continue the benefits of tax abatement provided in the Urban Redevelopment Corporations Law and as provided in the development plan, shall file with the city clerk three (3) copies of its financial report for the preceding year, which report shall disclose the earnings of the corporation and the disposition of any net earnings, and the interest rate on income debentures, bonds, notes or other evidences of debt of the corporation; thereupon, the city clerk shall deliver the financial reports to the director of finance who shall review the financial report of the corporation and thereafter he shall file with the council the financial report, accompanied by confirmation that the corporation is in good standing under the development plan and the development agreement.

(Ord. No. 2010-3435, § 1, 8-10-10)

Sec. 34-15. - Conveyance of property.

A corporation may sell or otherwise dispose of any or all of the real property acquired by it for the purpose of a redevelopment project. The development plan, the ordinance approving any development plan, and any development contract entered into pursuant thereto, may provide that in the event of the sale or other disposition of the real property of the corporation by reason of the foreclosure of any mortgage or other lien through insolvency or bankruptcy proceedings or by order of any insolvency or bankruptcy proceedings or by order of any court of competent jurisdiction, or by voluntary transfer or otherwise, the partial tax relief provided under the Urban Redevelopment Corporations Law shall inure to any purchaser of such real property so long as such purchaser shall continue to use, operate, and maintain such real property in accordance with the provisions of the development plan and comply with the terms of the development contract. If such development plan, ordinance and development contract do not so provide and the purchaser of such real property shall continue to use, operate, and maintain such real property in accordance with the provisions of the development plan, and agrees to continue to comply with the terms of the development contract, the council may grant the partial tax relief provided in the Urban Redevelopment Corporations Law. If such real property shall not be used, operated and maintained in accordance with the provisions of the development plan, or if the purchaser does not desire the property to continue under the development plan, or if the ordinance approving the development plan provides for termination of tax relief under such circumstances, the council may refuse to grant the purchaser continuing tax relief, the real property shall be assessed for ad valorem taxes upon the full true

value of the real property and, except as provided by contract, may be owned and operated free from any of the conditions, restrictions or provisions of this chapter, the development plan and development contract.

(Ord. No. 2010-3435, § 1, 8-10-10)

Sec. 34-16. - Failure to comply with approved development plan; remedies.

Whenever any corporation operating under, or availing itself of the benefits of a development plan does not substantially comply with the development plan and the development contract with the city within the time limits and in the manner as therein stated, reasonable delays caused by unforeseen circumstances beyond its control alone excepted, or shall do or permit to be done anything in violation of the development plan, the development contract, or this chapter, or fails or omits to do anything required of it by the development plan, the development contract, or this chapter, or shall be about so to do, permit to be done, or fail or omit to have done, then any such fact may be certified by the council to the counsel who may and is hereby authorized to commence a proceeding in the circuit court or other appropriate court or forum in the name of the city to have such action, failure or omission, or threatened action or omission stopped, prevented, rectified, or enforced by injunction or otherwise, or in the name of the city to bring an action for damages against the corporation for a breach of any of the terms, conditions and covenants of the development plan or the development contract; provided that in the event the council shall determine that a corporation has abandoned construction before completion of the redevelopment project in contravention of the terms of an approved development plan, a certified copy of the resolution of the council making such determination shall be recorded in the office of the St. Louis County Recorder of Deeds and the real property included in such plan shall from that date be subject to assessment and payment of all ad valorem taxes based on the true value of such real property. The council may elect to terminate a development contract for nonperformance or breach by the corporation. In the event the city prevails in any action at law or in equity, the corporation shall pay all attorney's fees, costs and damages arising out of such action within thirty (30) days of a final judgment or decree.

(Ord. No. 2010-3435, § 1, 8-10-10)

Sec. 34-17. - Acquisition of real property.

The city may:

- (a) Acquire by the exercise of the power of eminent domain, or otherwise, an area designated on a master plan as a redevelopment area;
- (b) Clear any such real property and install, construct, and reconstruct streets, utilities and any and all other city improvements necessary for the preparation of such area for use in accordance with the provisions of this chapter; and
- (c) Sell or lease such real property for use in accordance with the provisions of this chapter.

(Ord. No. 2010-3435, § 1, 8-10-10)

Sec. 34-18. - Acceptance of application of state enabling act.

The provisions of the Urban Redevelopment Corporations Law are hereby accepted. There is hereby incorporated by reference all of the provisions of the Urban Redevelopment Corporations Law. All of said provisions of the Urban Redevelopment Corporations Law shall apply to all persons and corporations operating under this chapter insofar as the same may be applicable thereto.

(Ord. No. 2010-3435, § 1, 8-10-10)

Sec. 34-19. - Computation of time.

In computing any period of time prescribed or allowed by this chapter, the day of the act or event after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or city legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a city legal holiday.

(Ord. No. 2010-3435, § 1, 8-10-10)

Sec. 34-20. - Severability.

The sections of this chapter shall be severable. In the event any section of this chapter is found by a court of competent jurisdiction to be invalid, the remaining sections of this chapter are valid, unless the court finds the valid sections of this chapter are so essentially and inseparably connected with, and so dependent upon the void section that it cannot be presumed the council would have enacted the valid sections without the void section, or unless the court finds that the valid sections standing alone are incomplete and are incapable of being executed in accordance with the legislative intent.

(Ord. No. 2010-3435, § 1, 8-10-10)

Chapter 35 - SCHOOLS^[1]

Footnotes:

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Cross reference— Nurseries and kindergartens, § 12-31 et seq.

State Law reference— Schools, RSMo Ch. 160 et seq.

Sec. 35-1. - Trespass on school property prohibited.

- (a) No person shall enter and remain in any public, private or parochial school building between the hours of 8:00 a.m. and 4:30 p.m., on days such school is in session who is not a regularly enrolled student, teacher or other employee at such school, unless he shall have first and immediately proceeded to the administrative offices and identified himself to the principal of such school.
- (b) It shall be unlawful for any person to enter and remain in any public, private or parochial school, or on surrounding school grounds within two hundred fifty (250) feet of the school building, after being requested to leave by the principal of such school.
- (c) Violations of the provisions of this section shall constitute a trespass in the first degree under section 18-63.

(Code 1973, §§ 51.42.4, 51.42.6)

Sec. 35-2. - Disturbances prohibited.

- (a) No person shall wilfully or maliciously make or assist in making any noise, disturbance or improper diversion by which the peace, quietude or good order of any public, private or parochial school is disturbed.
- (b) Any person found to be creating a disturbance in any private, public or parochial schools or on the surrounding school grounds or on the fields or grounds lawfully used for school activities while such recreational areas or other activities are in progress, shall leave immediately when so directed by the principal or by any other person designated by the principal.

(Code 1973, §§ 51.42.1, 51.42.3)

Chapter 36 - SIGNS^[1]

Footnotes:

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Cross reference— *Subdivision regulations, Ch. 41; zoning, Ch. 49.*

Sec. 36-1. - Purpose and intent.

The purpose of this chapter is to provide reasonable regulations for the erection and display of signs. These regulations are intended to promote the public health, safety, and general welfare through a comprehensive set of reasonable standards and requirements which preserve the appearance of the city.

These regulations are not intended to prohibit the erection or display of a sign with a religious or political message, or any sign allowed or required by state or federal law provided that any such sign conforms to the size requirements and other reasonable requirements of this chapter.

(Ord. No. 97-2932, § 1, 8-27-97)

Sec. 36-2. - Definitions.

The following words and phrases shall have the meanings given in the following clauses for the purposes of this chapter. Words and phrases which are not defined shall be given their usual meaning except where the context clearly indicates a different or specific meaning.

A-frame sign. A portable sign where the two (2) sign faces are attached at the top in a hinged fashion to allow the bottom portion of the two (2) faces to spread apart and rest on the ground to support the sign.

Alter. A physical change in a sign or sign supports, or an addition to a sign or sign supports. The term "alter" includes renovation, modification, rehabilitation, or restoration, but does not include changing the copy on an institutional bulletin board sign, or other legal changeable copy sign.

Area of sign. See: Sign Area, Gross.

Area of window. The area of glass, including mullions, of a single window unit.

Awning. A shelter or protective cover projecting from and supported by the exterior wall of a building constructed of non-rigid materials over a rigid framework which is either ground supported or which can be raised or retracted to a position against the building when not in use.

Awning sign. Any sign that is a part of or attached to an awning.

Banner. Any sign of lightweight fabric or other nonrigid material that is mounted to a pole, building, or other structure by a frame at one or more edges. National flags, state, or municipal flags, or the official flag of any institution or business shall not be considered banners.

Billboard. A sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

Bulletin board sign. A wall sign or freestanding sign located on the premises of a place of worship or school, on government-owned property, or a city-owned sign placed on other property, which contains changeable copy information such as the names of individuals connected with the institution, general announcements of events or activities occurring at the institution or within the city, or similar messages.

Canopy. A shelter or protective cover projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a ground-supported, rigid framework.

Canopy sign. Any sign that is a part of or attached to a canopy or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area.

Changeable copy. Message information on a sign face which is altered manually through the use of attachable letters, numbers and symbols.

Commercial message. Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

Construction sign. A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the owners and/or contractors having a role or interest with respect to the structure or project.

Copy. Message information on a sign face.

Covered walkway. A pedestrian space under a structure constructed of rigid material extending from, attached to, and supported by a building, but not including an awning, canopy, or similar object constructed of nonrigid material.

Dynamic display sign. Any characteristics of a sign that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. Such technologies or methods may include, but are not limited to, cathode-ray tube (CRT), light-emitting diode (LED) displays, plasma displays, liquid crystal displays (LCD) or other technologies used in commercially available televisions or in computer or video monitors.

Election sign. A temporary sign supporting a candidate and/or issue on the ballot in an impending election.

Erect. To build, construct, install, attach, hang, place, inscribe, suspend, or affix, and shall include the painting of wall signs.

Flag. Any fabric or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, institution or business.

Freestanding sign. Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure including low monument signs and pole signs.

Gross sign area. See: Sign Area, Gross.

Highway. That part of a primary highway system which has been constructed as divided, dual lane, fully controlled access facilities with no access to the throughways except the established interchanges, and that portion of the national system of inter-state highways located within the boundaries of Missouri, as officially designated or may be hereafter designated by the State Highways and Transportation Commission with the approval of the Secretary of Transportation, pursuant to Title 23, United States Code, as amended.

Incidental sign. A sign which is generally informational and has a purpose secondary to the use of the premises on which it is located, such as "credit cards accepted here," "loading only," "telephone," or similar information. No sign with a commercial message legible from a position off the premises shall be considered incidental.

Light pole artwork sign. A sign fabricated from a durable fabric, with a design applied through silkscreening or similar application method, the content of such signs shall generally be civic or seasonal in nature, but may identify a business district or area.

Living or human sign. A commercial business sign held by or attached to a human for the purposes of advertising or otherwise drawing attention to a business, commodity, service, or product. This can also include a person dressed in costume for the purpose of advertising or drawing attention to a business, commodity, service, or product.

Low monument sign. A freestanding sign located adjacent to a road right-of-way with a single pedestal base where the pedestal base is at least fifty (50) percent of the width of the sign face.

Marquee. A permanent shelter or protective cover projecting from and supported by the exterior wall of a building.

Marquee sign. Any sign that is part of or attached to a marquee.

Message board. An electronically or electrically controlled sign utilizing a fixed or moving display of letters and numbers on the same lamp bank matrix in which the illumination does not change in intensity during uniform daylight or darkness.

Nonconforming sign. Any sign that was lawfully erected but no longer conforms to the requirements of this ordinance. Nonconforming signs include, but are not limited to, billboards located more than six hundred sixty (660) feet from an interstate highway, freestanding signs with sign faces larger than sixty-four (64) square feet, and freestanding signs located more than six hundred sixty (660) feet from an interstate highway that exceed thirty-five (35) feet in height.

Off-premises sign. Any sign, except a billboard as defined herein, which advertises or identifies a property, business, or address other than the property, business, or address where the sign is displayed.

Off-site sign. See: Off-premises sign.

On-premises permanent sign. A sign pertaining primarily to the use of the premises on which the sign is located and which may contain, but is not limited to, any of the following information: the name of the owner, occupant, management, business, or building; the address; type of business, profession, service, or activity; and the type(s) of products offered.

Outdoor advertising. An outdoor sign, display, device, figure, painting, drawing, message, plaque, poster, billboard, or other thing designed, intended, or used to advertise or inform, any part of the advertising or information contents of which is visible from any point of the travelled ways of the interstate or primary systems.

Period sign. A sign that recreates or exhibits the look, style, and type of signage used prior to January 1, 1960.

Pole sign. A freestanding sign in excess of six (6) feet in height elevated above ground level by one or more narrow structures or supports that are anchored in the ground and that is independent from any building or other structure, but not including a billboard.

Portable sign. Any sign not permanently attached to the ground or other permanent structure, which is designed to be transported, including, but not limited to, signs designed to be transported by means of wheels, signs converted to A- or T-frames, menu and sandwich board signs, and hot air balloons used as signs.

Projecting sign. Any sign attached to, and extending more than fourteen (14) inches from, a wall which is supported by such wall, and which displays not more than two (2) sign faces.

Real estate sign. Any sign pertaining to the sale, lease, or rental of real estate.

Residential sign. A sign on a residentially-zoned lot that contains a political, religious, or other noncommercial message.

Roof sign. Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof; or any sign erected above the eave line of a gable, hip, or gambrel roof.

Shopping center. A group of three (3) or more commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on-site. The total gross leasable floor area of such a center shall generally be greater than ten thousand (10,000) square feet.

Sign. Any device, fixture, placard, or structure that uses any color, form, graphic illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public, but not including a church steeple.

Sign area, gross. The entire area within a single continuous perimeter composed of parallelograms, triangles, circles, ellipses, or combinations thereof, enclosing the extreme limits of the sign, but not including structural supports which are not an integral part of the sign; except that in the case of an individual letter sign erected on a wall only two-thirds (2/3) of the entire area of the enclosing parallelograms, triangles, circles, ellipses, or combinations thereof, shall be counted as the gross area of the sign. Where a sign has two (2) or more faces, the gross area of all such faces shall be included in determining the total gross area of the sign.

Sign face. The area or display surface used for the message.

Sign frontage. The lineal distance of the right-of-way which runs along what is considered or designed as the front of the building/property

Sign height. For all signs except billboards, the vertical distance measured from the elevation of the center line of the adjacent right-of-way at the point closest to the sign to the highest point of the sign.

Sign permit. A document certifying that the plans for the proposed sign comply with all applicable city ordinances and requirements.

Snipe sign. A temporary sign or poster affixed to a utility pole, tree, fence, or similar object not designed to support a sign.

Special event sign. A temporary sign announcing or promoting an event sponsored by a governmental or nonprofit organization. Such event could include a Fourth of July celebration, or other seasonal or annual event.

Temporary advertising sign. A temporary sign or signs displayed so as to attract attention to the sale of merchandise or services, or a change in policy or in the status of a business.

Temporary sign. A sign which is not illuminated and is not permanently installed or affixed to any sign, structure, building or lot.

Unkempt or unsightly sign. A sign that is clearly in disrepair, is missing part of its copy, has letters or other copy that are broken, missing, or so faded that they are difficult to read from the street, is not securely affixed to either the ground or some other supporting structure, contains an illegible message, contains rust or peeling or flaking paint, or has damage to its face which is clearly visible from the street.

Vehicular/trailer sign. Any sign mounted, painted, attached or affixed to a trailer, truck, automobile, or other form of motor vehicle, which is parked or placed in such a manner, that the sign is no longer incidental of the vehicle's purpose, but becomes the primary use of the stationary vehicle and/or trailer.

Wall sign. Any sign attached parallel to, and within fourteen (14) inches of, a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign face.

Window sign. Any sign, advertisement, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, which is placed immediately inside a window or upon the window panes or glass and is visible from the exterior of the window. This does not include merchandise and/or products.

(Ord. No. 97-2932, § 1, 8-27-97; Ord. No. 97-2948, § 1, 10-28-97; Ord. No. 99-3031, § 1, 5-25-99; Ord. No. 99-3048, § 1, 10-26-99; Ord. No. 2001-3129, § 1, 9-11-01; Ord. No. 2009-3378, § 1, 1-13-09; Ord. No. 2014-3555, § 1, 6-10-14)

Sec. 36-3. - Applicability.

The provisions of this chapter shall apply to signs in both residential and nonresidential zoning districts of the city, unless a sign is specifically exempted by section 36-4 of this chapter. Every sign shall comply with all other applicable ordinances of the city. In case of a conflict between the provisions of this chapter and other applicable provisions, the more restrictive shall govern.

(Ord. No. 97-2932, § 1, 8-27-97)

With the exception of section 36-12 concerning design, construction, maintenance, and inspection, the provisions and regulations of this chapter shall not apply to the following signs:

- (1) Governmental and official signs including, but not limited to, the following:
 - a. Public notices and official notices posted or authorized by government officials in the performance of their duties.
 - b. Signs for the control or direction of traffic and other appropriate public purposes.
- (2) "No parking" and "no trespassing" signs that are no larger than one (1) square foot in gross sign area and have a sign height of six (6) feet or less.
- (3) Driveway signs including the following:
 - a. Signs at driveway entrances provided that such signs do not exceed one (1) square foot in gross sign area and have a sign height of three (3) feet or less.
 - b. Residential address number located on a sign not larger than one (1) square foot in gross sign area. If such information is contained on a freestanding sign, such sign shall be limited to a height of three (3) feet.
- (4) Illuminated or nonilluminated bulletin board signs (as defined in section 36-2) erected by the City of Ferguson, a place of worship, or a school, provided that such signs are not larger than twenty-four (24) square feet and the sign height does not exceed eight (8) feet.
- (5) Residential garage or patio sale signs not exceeding six (6) square feet per sign face with not more than two (2) sign faces which are erected not more than three (3) days prior to such sale and removed the day following the sale.
- (6) Incidental signs as defined in section 36-2.
- (7) The height, spacing and lighting of outdoor advertising structures placed within the view of a highway within the city.

(Ord. No. 97-2932, § 1, 8-27-97; Ord. No. 97-2949, § 1, 10-28-97)

Sec. 36-5. - Prohibited signs.

The following types of signs are specifically prohibited in the city:

- (1) Signs visible from a public right-of-way that imitate, blend, or conflict with, or that may be confused with traffic signals and signs. Such signs shall include, but not be limited to, signs that are imitations of "stop," "go," "caution," "danger," or "warning."
- (2) Signs that are of a size, location, movement, or illumination as may be confused with or construed as a traffic control device or which might obstruct from view any traffic or street sign or signal.
- (3) Signs on public land, except those erected at the direction of or with the permission of an appropriate public authority.
- (4) Strips or strings of light bulbs used to call attention to a use or occupancy which are suspended from or attached to poles or similar structures. Exempted from this provision are holiday lighting displayed from November 21 through January 15.
- (5) Moving signs, including those of which all or any part of the sign moves or appears to move. This prohibition against moving signs shall extend to devices including strings of light bulbs and rotating signs, whether part of any signs or maintained as an independent feature.

Commercial message signs in residential zoning districts. The only exceptions are for real estate signs described in section 36-6(3) and a sign that is used in connection with a preexisting nonconforming use as defined by the city's zoning ordinance. A sign of that type shall be subject to section 36-7 so long as the nonconforming use continues.

- (7) Snipe signs as defined in section 36-2.
- (8) Unkempt or unsightly signs as defined in section 36-2.
- (9) Roof signs as defined in section 36-2.
- (10) Any sign structure which no longer supports a sign. Exempted from this section is a sign structure which is temporarily void of a sign due to a permitted alteration or repair. A sign permit or an application for a sign permit for this alteration or repair must be on file with the city and said alteration or repair must be completed within one (1) month of the issuance of the approved sign permit.
- (11) Permanent or temporary window signs above the ceiling of the second floor including lettering painted or applied to glass.
- (12) Portable signs as defined in section 36-2 except for A-frame signs in the DB-1 district.
- (13) Signs extending over a roadway except projecting signs in the DB-1 district and temporary special event signs.
- (14) Signs that advertise an activity or business no longer conducted on the premises upon which the sign is located. Such signs shall be removed within six (6) months after such activity or business ceases operation. The director of public works may grant one (1) extension of not more than six (6) months for this removal.
- (15) Signs erected in a way that would impair the view of motorists at intersections or along public streets.
- (16) Vehicular/trailer signs as defined in section 36-2.
- (17) Living or human signs as defined in section 36-2.

Any sign not permitted by section 36-6, 36-7, or 36-8, or exempted by section 36-4 is prohibited.

(Ord. No. 97-2932, § 1, 8-27-97; Ord. No. 99-3049, § 1, 10-26-99; Ord. No. 2014-3555, § 1, 6-10-14)

Sec. 36-6. - Permitted signs in all zoning districts.

The following signs are permitted in all zoning districts; subject to all of the limitations and provisions stated in this chapter:

- (1) Residential development identification signs which are permanent signs designating a multifamily development, subdivision or neighborhood. Such signs shall be limited to thirty-two (32) square feet per sign face with a maximum of two (2) sign faces. Each such development shall be limited to one (1) double-faced sign or two (2) single-faced signs per entrance. In addition, directional signs internal to a multifamily development may also be approved by the department of public works, provided that such signs are not more than three (3) square feet in size.
- (2) A residential sign, provided however, that there shall be only one (1) such sign on any lot. Such sign may contain a religious or political message or other information but may not contain a commercial message. A residential sign shall have a maximum sign area of six (6) square feet per sign face and a

maximum of two (2) sign faces. No permit shall be required for such a sign provided that the sign is erected by the owner or with the owner's permission. Election signs are regulated in paragraph (5) of this section.

- (3) A real estate sign which is permitted by section 67.317 of the Revised Statutes of the State of Missouri. Such sign may advertise the property for sale, lease, or rent, but is limited to six (6) square feet per sign face and a maximum of two (2) sign faces. Real estate signs shall be removed from the premises ten (10) days after the premises is sold, leased, or rented.
- (4) Institutional signs concerning institutional uses such as schools, country clubs, monasteries, convents, and places of worship. Such institutions shall be allowed one (1) permanent wall sign and one (1) permanent freestanding sign. Institutional uses with contiguous lots or parcels totaling five (5) acres or more in size shall be allowed a dynamic display sign per the regulations and criteria outlined in section 36-7(f). In addition, a place of worship having a significant accessory use or uses such as a day care facility, may have one (1) additional freestanding sign. No permanent sign shall contain a sign face with an area exceeding thirty-two (32) square feet in size and no freestanding sign shall have more than two (2) faces. One of the permanent signs may be a bulletin board sign with changeable copy. In addition, such institutions shall be permitted one (1) temporary sign which may be a single or double-faced sign although no single sign face shall exceed six (6) square feet and the total gross area of any such sign shall not exceed twelve (12) square feet. Display of such sign shall be limited to a period of fifty-five (55) days. Institutional signs in non-residential zoning districts may compute allowable signage based on the on-premise permanent sign size allowances in section 36-7 in lieu of the requirements specified in this paragraph.
- (5) Election signs may be erected within a period extending one hundred twenty (120) days prior to and ten (10) days after any election held within St. Louis County, with the property owner's permission. Such signs shall be in addition to the permitted signage permitted by other provisions of this chapter on any lot or parcel of land in the city. Each lot or parcel of land shall be permitted one (1) or more single or double-faced signs although no single sign face shall exceed six (6) square feet and the total gross area of any such sign shall not exceed twelve (12) square feet. No election sign shall exceed twelve (12) feet in height.
- (6) In addition to a real estate sign allowed in paragraph (3) of this section, up to six (6) temporary open house signs shall also be allowed. One such sign shall be allowed on site and up to five (5) are allowed off-site. Not more than one (1) off-site open house sign shall be allowed per street. Open house signs shall be limited to a maximum sign area of six (6) square feet per sign face and a maximum of two (2) sign faces, and shall be permitted for up to three (3) consecutive days and shall be removed no later than one (1) day after the open house. A minimum of four (4) days shall transpire prior to posting any open house sign on the same lot or parcel for a second or subsequent time. No permit shall be required for such a sign.

(Ord. No. 97-2932, § 1, 8-27-97; Ord. No. 2015-3572, § 1, 2-10-15)

Sec. 36-7. - Permitted signs in nonresidential zoning districts.

- (a) *Types of signs.* In addition to the signs allowed by section 36-6, additional signs are allowed in nonresidential zoning districts which are necessary to identify and promote business, industry, and institutions. These signs include the following:
 - (1) On-premises permanent signs including wall signs, projecting signs, awning signs, canopy signs, window signs, freestanding signs, message boards, and changeable copy signs;
 - (2) Special purpose signs;

- (3) Billboards (see section 36-8);
 - (4) Temporary signs;
 - (5) A-frame sign.
- (b) *On-premises permanent signs.* On-premises permanent signs include wall signs, projecting signs, awning signs, canopy signs, window signs, freestanding permanent signs and changeable copy signs. The total square footage of all on-premise permanent signs allowed on a site shall not exceed two (2) square feet of sign area per linear foot of sign frontage as defined in section 36-2. Additional regulations are as follows:
- (1) The total sign area of all signs located on any wall of a building (including wall signs, awning signs, canopy signs, and window signs) shall not exceed ten (10) percent of the area of such wall. The total area of a projecting sign shall not exceed one (1) square foot of sign area per sign face per linear foot of sign frontage.
 - (2) Freestanding signs shall be allowed based on the amount of sign frontage. The sign frontages specified below shall be based on a single frontage. Two (2) or more sign frontages shall not be combined to meet the minimum frontages.
 - a. Sites with less than one hundred (100) feet of sign frontage shall not be allowed a freestanding sign.
 - b. Sites with at least one hundred (100) feet of sign frontage shall be allowed a low monument sign not exceeding six (6) feet in height. Such sign shall not exceed twenty-five (25) square feet of sign area per sign face with not more than two (2) sign faces.
 - c. Sites with at least one hundred fifty (150) feet of sign frontage shall be allowed one (1) pole sign not exceeding thirty-five (35) feet in height or one (1) low monument sign allowed in paragraph b. Such pole sign shall not exceed sixty-four (64) square feet in sign area per sign face with not more than two (2) sign faces.
 - d. Sites with at least three hundred (300) feet of sign frontage on each of two (2) or more streets, which consists of one (1) or more contiguous properties totaling at least ten (10) acres in size subject to a single comprehensive sign plan, and which are within six hundred sixty (660) feet of the right-of-way line of an interstate highway may be allowed more than one (1) pole sign based on the following:
 - 1. *Number of signs.* In no case shall the total number of freestanding signs on the site exceed one (1) freestanding sign per one hundred fifty (150) feet of sign frontage.
 - 2. *Sign heights.* One (1) pole sign identifying the site and/or its major tenant(s) may be erected to a height of sixty (60) feet. All other pole signs shall be limited to thirty-five (35) feet in height.
 - 3. *Size of signs.* One (1) sign not to exceed six hundred (600) square feet per sign face with not more than two (2) sign faces identifying the site and/or its tenant(s) may be allowed. A second sign not to exceed three hundred fifty (350) square feet per sign face with not more than two (2) sign faces identifying the site and/or its tenant(s) may be allowed. A third sign not to exceed one hundred seventy-five (175) square feet per sign face with not more than two (2) sign faces identifying the site and/or its tenant(s) may be allowed. All additional freestanding signs shall be limited to sixty-four (64) square feet per sign face with not more than two (2) sign faces.

A message board may be approved by the plan commission as part of a site for a commercial use if the use has at least one hundred fifty (150) feet of sign frontage on a single public street. The area of a message board shall be limited to sixty-four (64) square feet per sign face with not more than two (2) sign faces, and shall not exceed thirty-five (35) feet in height unless said sign is within view of a highway within the city. For such a commercial use located within view of a highway within the city, the allowable size of the message board may be increased to not greater than one hundred seventy-five (175) square feet per sign face with not more than two (2) sign faces.

- (4) Prior to erection of any permanent on-premises sign allowed by paragraphs (1), (2), or (3) of this section, the applicant, owner, or lessee of the premises for which the sign(s) is proposed shall post a bond to cover the costs of removal of the sign(s) should the establishment go out of business and fail to remove such sign(s).
 - (5) The total gross sign area of all permanent window signage, striping, incidental signs and paper/temporary window signs shall not exceed twenty-five (25) percent of the total clear glass area along the portion of the storefront on which the signs are located. Sign permits shall not be required for incidental window signs that do not exceed one (1) square foot in sign area or temporary window signs that do not exceed six (6) square feet in sign area.
- (c) *Special purpose signs.* Signs authorized in this subsection are not to be included in calculating the allowable gross sign area for on-premises permanent signs.
- (1) *Parking direction signs.* One (1) freestanding parking direction sign per direction, which may be internally illuminated, shall be permitted for each driveway, provided the sign does not exceed ten (10) square feet in gross sign area per face, the sign height does not exceed three (3) feet, and no portion of the sign shall extend into the public right-of-way. If the sign is located at a private driveway, the sign may contain the address of the business or institution on the premises.
 - (2) *Parking regulation signs.* One (1) nonilluminated parking regulation sign (such as no parking, parking reserved for, and similar signs), not exceeding five (5) square feet in gross sign area and not exceeding ten (10) feet in sign height, shall be permitted for each commercial or public parking lot. Parking lots with more than twenty (20) parking spaces shall be permitted one (1) such sign for each twenty (20) parking spaces. In addition, a handicapped, van accessible, or similar sign shall be allowed for each handicapped parking space. The size and height of such sign shall be no larger or higher than required to be in compliance with the Americans with Disabilities Act.
 - (3) *Covered walkway signs.* A sign, not to exceed two (2) square feet in gross sign area, may be hung from the ceiling of a covered walkway that is attached to the front of a retail store. Such a sign shall not exceed eighteen (18) inches in drop from the bottom of the said sign to the ceiling surface of the covered walkway, nor shall the bottom of said sign be less than seven (7) feet above the sidewalk surface it is hanging over. Only one (1) covered walkway sign per business shall be allowed. Such a sign shall be hung perpendicular to the retail store front so as to be beneficial to pedestrian traffic.
 - (4) *Menu boards.* Menu boards at drive-in restaurants or drive-through windows at restaurants may be allowed, provided the message on such menu board is not legible off the premises.
 - (5) *Light pole artwork signs.* Light pole artwork signs shall be permitted on light poles in public surface parking lots accommodating a minimum of two hundred (200) vehicles. All light poles supporting these signs must be located a minimum of fifteen (15) feet from the front curb line of the parking lot. The bottom of such sign shall not be lower than twelve (12) feet from the base of the light

pole. In addition, temporary light pole artwork signs may be permitted on light poles or similar utility poles adjacent to a public street to announce special events. The gross sign area of each light pole artwork sign shall not exceed eighteen (18) square feet with a maximum of two (2) signs per light pole. No part of the sign shall project more than three (3) feet beyond the vertical centerline of the light pole. These signs shall be attached to the light pole in such a manner as to minimize any sign movement. Any torn, frayed, or faded light pole artwork sign must be repaired, replaced, or removed entirely within ten (10) days of written notification.

- (d) *Temporary signs.* Temporary signs allowed in nonresidential zoning districts include on-site construction signs, temporary advertising signs, real estate signs, election signs, and special event signs.
- (1) *On-site construction sign.* Only one (1) such sign per entire development denoting the owner, architect, engineer, consultant, developer, lender and/or contractor, not to exceed ten (10) feet in height from top of sign to top of grade or two (2) feet in height from bottom of sign to top of grade, shall be permitted. Such a sign shall be erected out of the public right-of-way and shall be removed ten (10) days after the receipt of an occupancy permit for a building or development.
 - (2) *Temporary advertising signs.* The director of public works, or the director's designee may issue a permit for one (1) temporary sign advertising a special promotion or grand opening for a period not exceeding thirty (30) consecutive days. The advertisement contained on the temporary sign shall pertain only to the business, industry, or pursuit conducted on or within the premises on which such sign is erected. The temporary advertising sign may be a sign or banner affixed on poles, wires, ropes, or may be streamers, inflatable signs, tethered balloons, a wind-operated device, an "A" frame sign, or a similar device. Temporary signs as authorized herein may be displayed on a premises for a maximum of ninety (90) days per calendar year provided that no individual temporary advertising sign is displayed for a period exceeding thirty (30) consecutive days, there is a minimum of thirty (30) days between the display of temporary advertising signs on a premises, and no premises shall be issued more than six (6) permits for temporary advertising signs during any calendar year.
 - (3) *Real estate signs.* In lieu of the real estate signs allowed by section 36-6(3), a real estate sign in a nonresidential zoning district may exceed six (6) square feet per sign face based on the formula in paragraph (6) of this section provided that the sign is limited to advertising the premises on which it is located. Real estate signs shall be removed from the premises ten (10) days after the premises is sold, leased, or rented.
 - (4) *Election signs.* In lieu of the election sign size limitation allowed by section 36-6, temporary election signs in nonresidential zoning districts may exceed six (6) square feet per sign face based on the formula in paragraph (6) of this section. All other requirements of section 36-6, paragraph (5) apply to election signs in nonresidential districts.
 - (5) *Special event signs.* Signs or banners promoting or announcing a special event sponsored by a governmental or nonprofit agency may be approved by the director of public works. Such signs shall not be erected more than forty-five (45) days prior to the event and shall be removed within ten (10) days following the event. The size of such sign shall be based on the formula in paragraph (6) of this section except for signs erected over a roadway which shall not exceed sixty-four (64) square feet per sign face.

(6)

Size limitations. All temporary signs in nonresidential zoning districts shall be limited to the size limitations enumerated in this paragraph. The maximum size of temporary signs shall be based on the sign frontage of the lot or building space (if the business is located within a shopping center). In the case of corner lots, only one (1) sign frontage shall be used in calculating the allowable size of the sign.

Sign Frontage	Maximum Size of Sign per Sign Face
Less than 100 feet	<u>32</u> square feet
100—200 feet	<u>48</u> square feet
Greater than 200 feet	64 square feet

- (7) *Temporary window signs.* A temporary window sign not exceeding six (6) square feet in size may be placed in the window of a commercial establishment without a permit, provided that the total square footage of all signs placed on or in the windows of the establishment do not exceed twenty-five (25) percent of the total window area.
- (e) *A-frame signs.* A-frame signs are allowed in the DB-1 Downtown Core Business District only, based on the following criteria:
- (1) Such signs are limited to eight (8) square feet per sign face with not more than two (2) sign faces;
 - (2) The overall size of the sign shall not exceed thirty (30) inches in width nor forty-eight (48) inches in height;
 - (3) Such signs may not be internally illuminated;
 - (4) Such signs may be placed only on the sidewalk in front of the place of business and must allow a three-foot wide space on the sidewalk for pedestrians to pass;
 - (5) Such signs must be professionally prepared and be in character with the surrounding area;
 - (6) Such signs shall be removed from the sidewalk and placed inside the business at the close of each business day and/or whenever the business ceases to be open;
 - (7) Such signs shall be secured in a fashion to prevent them from blowing over or falling over.
- (f) *Dynamic display signs.* Dynamic display signs are allowed in the C-2 Planned Commercial District only, based on the following criteria:
- (1) Shall be approved by plan commission, and part of a comprehensive sign plan.
 - (2) Shall be located on a site with at least one hundred fifty (150) feet of sign frontage.
 - (3) Shall not exceed the total number of free standing signs allowed.
 - (4) Shall be set back a minimum of fifteen (15) feet from the right-of-way, unless at an intersection.
 - (5) Such signs shall be limited to a free standing sign and be perpendicular to the right-of-way, unless at an intersection.
 - (6) Shall be set back a minimum of twenty-five (25) feet from the point of the intersection of the curb or edge of two (2) intersecting streets, and can be read from both streets.

- (8) Shall not exceed thirty (30) square feet and/or fifty (50) percent of the total square footage of the sign face, whichever is less.
 - (9) Shall not include animation, full motion video, flashing, scrolling, strobing, racing, blinking, changes in color, fade in or fade out in any manner imitating movement.
 - (10) Images and messages displayed must be static, and the transition from one (1) static display to another must be instantaneous with no special effects or the transition may provide a black screen for at least ten (10) seconds before transitioning to a new message, except for signs within two hundred fifty (250) feet of an intersection, then each message shall be illuminated for at least thirty (30) seconds before transitioning to a new message.
 - (11) Shall not cause glare, disturbance, or other problems to residential properties or land uses, and shall not be located within one hundred fifty (150) feet from any residential dwelling.
 - (12) No sign shall be of such intensity or brilliance as to impair the vision of a motor vehicle driver, nor shall interfere with official traffic signs, devices, or signals.
 - (13) Signs shall have ambient light monitors that automatically adjust the brightness level of the sign based on light conditions, and not exceed a brightness level of 0.3 foot candles above ambient light as measured using a foot candle (Lux) meter.
 - (14) Shall provide certification from the sign manufacturer stating that the sign is capable of complying with the above brightness provisions.
 - (15) May only display and advertise information about products, events, persons, institutions, activities, businesses, services or subjects that are located on the premises or on the site or only to provide public service or community service information.
- (Ord. No. 97-2932, § 1, 8-27-97; Ord. No. 97-2950, § 1, 10-28-97; Ord. No. 97-2951, § 1, 10-28-97; Ord. No. 99-3050, § 1, 10-26-99; Ord. No. 99-3051, § 1, 10-26-99; Ord. No. 99-3052, § 1, 10-26-99; Ord. No. 2001-3129, § 1, 9-11-01; Ord. No. 2014-3555, § 1, 6-10-14; Ord. No. 2015-3572, § 1, 2-10-15)

Sec. 36-8. - Billboards.

- (a) *Definitions.* The following words and phrases shall have the meanings given in the following clauses for the purposes of this section. If a conflict occurs between the definition of a word in this section as defined in other sections of the Municipal Code for the purposes of this section, the definition in this section shall prevail. Words and phrases which are not defined shall be given their usual meaning except where the context clearly indicates a different or specific meaning.

Abandoned billboard. A billboard which has carried no message for more than one hundred eighty (180) days or which no longer identifies a bonafide business, lessor, service, owner, product, or activity, date or time of past event, and/or for which no legal owner can be found. The definition shall also include any billboard structure which no longer supports the billboard for which it was designed.

Administrator. The designated government official whose responsibility it is to administer the provisions of this section. These activities may include, but are not limited to, reviewing applications for billboard permits, corresponding and/or meeting with applicants, issuing and denying billboard permits, inspecting billboards, and interpreting and enforcing the provisions of this section.

Billboard. A billboard is an object, device, display, sign, or structure or part thereof, displayed outdoors or visible from a public way, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location, or to express a point of view, by any means, including words, letters, figures, design, symbols, advertising flags, fixtures, colors,

illuminations, or projected images sold at a location other than where the sign is located. Each substantially different face of a billboard structure shall constitute a separate billboard. Billboards do not include on-premises, commercial, or political signage nor small commercial or non-commercial signs temporarily placed on residential lawns by residents, owners, contractors, realtors, or by or on behalf of political candidates or issues.

Billboard area. The facing of a billboard, including copy, insignia, background, structural supports, border, and trim. The measurement shall be determined by the smallest rectangle inclusive of all letters and images. The structural support shall be excluded if they do not constitute a major part of the billboard or if the structure is not used to identify or attract attention to the business or product.

Changeable copy. Copy that changes at intervals of more than once every six (6) seconds.

Commercial billboards. A billboard which identifies goods or services that are not sold on the premises where the billboard is located.

Directional sign. A sign erected and maintained by local officials within the public right-of-way, to indicate to the traveling public the route and distance to public accommodations, facilities, commercial services, and points of scenic, historical, cultural, recreational, educational, or religious interest. Such signs shall conform to all applicable state regulations regarding the placement of billboards in public rights-of-way.

Expressway or freeway. A highway to which access is restricted except by ramps or interchanges.

Flashing illumination. A light source which, in whole or in part, physically changes in light intensity or gives the appearance of such change at intervals of less than six (6) seconds.

Height. The vertical distance measured from grade at the edge of the adjacent right-of-way to the highest point of the billboard.

Illegal billboard. A billboard that was constructed in violation of regulations that existed at the time it was built.

Indirect illumination. A light source not seen directly.

Internal illumination. A light source that is concealed within the billboard and becomes visible in darkness through a translucent surface.

Movement. Physical movement or revolution up or down, around, or sideways that completes a cycle of change at intervals of less than six (6) seconds.

Nonconforming billboard. A billboard which was lawfully erected and maintained at the effective date of this section or any amendment thereto, that does not conform to the regulations of this section.

Political billboard. A billboard that advertises a candidate or an issue which is to be voted on in a local, state or federal election.

Premises. The contiguous land in the same ownership or control which is not divided by a street.

Spacing. Spacing of billboards shall be the minimum distance between outdoor advertising billboard structures measured along the nearest edge of the pavement between points directly opposite the billboards along each side of the highway and shall apply to outdoor advertising billboard structures located on both sides of the highway involved.

Structure. Anything built that requires a permanent location.

(b) *Billboard regulations—Permitted.*

- (1) *New billboards.* No new billboards shall be erected within the city limits except as may be permitted by this section and only those that shall conform to the height, size, lighting, and spacing requirements prescribed by this section.
 - a. Height: All billboards shall be no greater than twenty-five (25) feet in height.
 - b. Size: All billboards shall be no greater than one hundred fifty (150) square feet in area. Except for exempted billboards in subsection (d), only one billboard shall be permitted on each billboard structure.
 - c. Lighting: In addition to the lighting restrictions of RSMo 226.540(1) which shall apply to all billboards, no billboard shall be so illuminated that it interferes with the safety of aircraft flight in the vicinity of the billboard, interferes with the use and enjoyment of property of any adjacent landowners, or allows the illumination source to be directly visible from any right-of-way or adjoining property.
 - d. Spacing: All measurements shall be made parallel to the roadway between perpendiculars extended from the billboard locations in question:
 1. Interstate highways and freeways on the federal-aid primary system:
 - (i) No billboard shall be erected within two thousand (2,000) feet of an existing billboard on either side of the highway.
 - (ii) No billboard shall be erected within two thousand (2,000) feet of an interchange, intersection at grade, or safety rest area.
 2. Nonfreeway federal-aid primary highways: Within the limits of the City of Ferguson, no billboard shall be erected within one thousand (1,000) feet of an existing building on either side of the highway.
 - e. Minimum setback: All billboards and billboard structures must be located at least fifty (50) feet from any property line and placed so as not to place a visibility or other hazard to vehicular traffic in the vicinity of the sign.
 - f. Location: Must be located within six hundred sixty (660) feet of the nearest edge of the right-of-way of an interstate or primary highway (as defined by the Missouri Department of Transportation) and the interstate or primary highway must not be a scenic roadway.
 - g. A billboard may only be placed on land zoned C-1 Commercial District, C-2 Planned Commercial District, or M-1 Industrial District.
 - h. No billboard structure shall be erected within two hundred (200) feet of any residentially zoned property, within fifty (50) feet of any existing building, within two hundred (200) feet of any park, playground, school, library, or place of worship, or within fifty (50) feet of an overhead power line.

(c) *Same—Prohibited.* The following are expressly prohibited unless specifically stated otherwise in this section:

- (1) *Animated and moving billboards.* Billboards employing movement including, but not limited to changeable copy signs, pennants, flags, banners, streamers, propellers, disco, and searchlights.
 - (2) *Flashing billboards.* Billboards that include lights which flash, blink, or turn on and off intermittently, not including time and temperature signs.
 - (3) *Glaring billboards.* Billboards employing direct, indirect, internal, flashing, or other illumination with light sources or reflectivity of such brightness that constitute a hazard to ground or air traffic or a nuisance, as determined by the administrator.
 - (4) *Inflatable billboards and objects.* Inflatable objects are prohibited including but not limited to balloons.
 - (5) *Roof billboards.* Billboards which are erected or painted on a roof or which extend in height above the roofline of the building on which the sign is erected.
 - (6) *Simulated traffic signs and obstructions.* Any sign which may be confused with or obstruct the view of any authorized traffic sign or signal, obstruct the sight distance triangle at any street or highway intersection, or extend into the public right-of-way.
 - (7) *Vehicular billboards.* Signs displayed on parked or stationary vehicles, where the primary purpose of the vehicle is to advertise a product or business or to direct people to a business or activity. For purposes of this section, vehicular billboards shall not include business logos, identification, or advertising on vehicles primarily used for other business purposes.
- (d) *Exempted signs.* The following signs do not require permits or fee payments under subsection (g) but must meet the other requirements of this section:
- (1) Traffic control signs.
 - (2) Traffic flow information signs.
 - (3) Direction signs.
 - (4) Temporary signs.
 - (5) Safety control signs.
- (e) *General design and construction standards.* All billboards shall be designed, constructed, and maintained in accordance with the following standards:
- (1) All billboards shall comply with the buildings and building regulations and all other Code sections of the City of Ferguson.
 - (2) All billboards shall be constructed of permanent materials and shall be attached to the ground, by direct attachment to a rigid wall, frame, or structure.
 - (3) All billboards shall be maintained in good structural condition, in compliance with all building, electrical codes and in conformance with the Municipal Code, at all times.
- (f) *Nonconforming billboards.*
- (1) *Continuance.* Each nonconforming billboard and billboard structure shall be allowed to be displayed for three (3) years from the adoption of this section, except that those nonconforming billboards located within six hundred sixty (660) feet of an interstate highway shall be allowed to be displayed for eight (8) years from the adoption of this section to provide reasonable opportunity for the owner to benefit from the investment made in the billboard.
 - (2) *Removal.* Nonconforming billboards and billboard structures shall be removed at the owner's or lessor's expense under the following circumstances:
 - a. Not later than three (3) years, or eight (8) years as provided in subsection (f)(1) above, from

- b. If the billboard is abandoned; or
- c. If the billboard becomes damaged or dilapidated to fifty (50) percent or more of its physical structure or economic value.

(g) *Permits, administration and enforcement.*

- (1) *Enforcement officer.* All administration and enforcement of this section shall be primarily implemented by the public works director or his designee ("the administrator"). The administrator shall have the responsibility and full authority to administer and enforce all provisions of this section, other than those provisions specifically reserved for the authority of the city council or other appropriate boards and/or commissions.
- (2) *Permit procedure.* All billboards, except as otherwise provided in subsection (d) of this section shall require a billboard permit prior to being constructed, reconstructed, moved, altered, replaced, or repaired. Billboard permits shall be issued by the administrator.
- (3) *Permit application.* All applications for billboard permits for the erection or relocation of a billboard shall be submitted to the administrator and shall contain or have attached at a minimum, the following information in either written or graphic form:
 - a. Application date.
 - b. Name, address, and telephone number of the billboard owner and, if different, the owner of the land on which the billboard will be erected.
 - c. Address of the property where the billboard or billboard structure will be erected.
 - d. Signature(s) of the billboard owner and, if different, the owner of the land on which the billboard will be displayed.
 - e. Location of the billboard on the property in relation to public rights-of-way, lot lines, buildings, sidewalks, streets, zoning districts, other existing billboards, and intersections.
 - f. General description of structural design and construction materials of billboard.
 - g. Drawing(s) of the proposed billboard which shall contain specifications indicating height, perimeter and other dimensions, means of support, modes of illumination if any, and any other significant aspect of the proposed billboard.
 - h. A boundary and sign survey showing the property and the proposed sign.
 - i. Certification(s) from licensed professional engineers that the soil surface is capable of sustaining the proposed load and that the electrical and structural strength of the proposed/actual sign is satisfactory.
 - j. Any other information requested by the administrator in order to carry out the purpose and intent of these regulations.
- (4) *Permit fee.* Each application for a billboard permit shall be accompanied by the applicable fee, which shall be established pursuant to section 36-11 of the Municipal Code.
- (5) *Permit application completeness.* Within thirty (30) days of receiving an application for a billboard permit, the administrator shall review it for completeness. If the administrator finds that it is complete, the application shall then be processed. If the administrator finds that it is incomplete she/he shall, within such thirty-day period, send to the applicant a notice of the specific ways in which the application is deficient with appropriate references to the applicable subsections of this section.

Permit issuance/denial action. All billboard permits shall be dated and numbered in the order of their issuance. Within thirty (30) days of the submission of a complete application for a billboard permit, the administration shall either:

- a. Issue the billboard permit, if the billboard that is the subject of the application conforms in every respect with the requirements of this section; or
 - b. Deny the billboard permit, if the billboard that is the subject of the application fails in any way to conform with the requirements of this section. In case of a rejection, the administrator shall specify in the rejection the section or sections of this section or applicable plan with which the billboard is inconsistent.
- (7) *Inspection upon completion.* Any person installing, structurally altering, or relocating a billboard for which a permit has been issued shall notify the administrator upon completion of the work. The administrator shall then conduct an inspection within ten (10) working days. If the construction is complete and in full compliance with this section and with the building and electrical codes, the administrator shall affix to the billboard a permanent symbol identifying the billboard and the applicable permit by number or other reference. If the construction is substantially complete but not in full compliance with the section and applicable codes, the administrator shall give the owner or applicant notice of the deficiencies and shall allow an additional thirty (30) days from the date of the inspection for the deficiencies to be corrected. If the deficiencies are not corrected by such date, the permit shall lapse. If the construction is complete, the administrator shall affix to the billboard the permanent symbol described above.
- (8) *Lapses of billboard permit.* A billboard permit shall lapse if the billboard is an abandoned billboard, or if the permittee's business license elapses, is revoked, or is not renewed. A billboard permit shall lapse if the use of the billboard is discontinued for a period of one hundred eighty (180) days or more. A billboard that was constructed or maintained in conformance with a permit under this section, but for which the permit has lapsed, shall be in violation of this section.
- (9) *Assignment of the billboard permit.* A current and valid billboard permit shall be freely assignable to a successor, owner of the property where the billboard is located, or of the leaseholder of the billboard, subject to filing such application as the Administrator may require and paying an initial inspection fee as required by Chapter 42 of the Municipal Code.
- (10) *Violations.* The administrator, upon finding that any provision of this section or any condition of a permit issued under this section is being violated, is authorized to institute either legal proceedings to enjoin the violations of this section or proceedings to revoke the permit issued pursuant to this section.
- (11) *Complaints and revocations.* The administrator shall investigate any complaints of violations of this section and may revoke a permit if there is any violation of the provisions of this section or if there was misrepresentation of any material facts in either the application or plans.
- (12) *Appeal procedure.* Any person applying for a billboard permit who is denied a permit or who disagrees with any ruling by the administrator may appeal to the board of adjustment in accordance with the procedures set forth in the zoning code of the City of Ferguson.
- (13) *Annexation.* For any billboard on property annexed at a later date, applications for billboard permits shall be submitted within six (6) months of the effective date of annexation or within such period as may be established on an annexation agreement between the municipality and the landowner.

Business tax. All new and existing billboards subject to this section shall be taxed at a rate to be established by the city council and as set forth in Chapter 42 of the Municipal Code of the City of Ferguson.

- (15) *Expiration of billboard permits.* If an approved billboard is not erected within a period of twelve (12) months from the date the permit is originally issued, the permit shall expire and become null and void.
- (16) *Fines.* A person who violates the provisions of this section or the conditions of a permit shall be guilty of an ordinance violation and shall be punished pursuant to section 1-15 the general penalty provision of the Municipal Code of the City of Ferguson. Such person shall also be liable for court costs and reasonable attorney's fees incurred by the municipality in enforcing this section.
- (17) *Illegal billboards.* The administrator may remove or order the removal at the expense of the billboard owner or lessor, any illegal billboard and any billboard other than a nonconforming billboard governed by subsection (f) not in compliance with the provisions of this section.
- (18) *Immediate peril.* If the administrator shall find any billboard which poses an immediate peril to persons or property, the billboard shall be removed. If the administrator cannot locate the billboard owner or lessor for immediate removal of the billboard, he shall remove or order the removal of the billboard at the expense of the billboard owner or lessor. All costs and expenses incurred by the city in removing billboards pursuant to this section may be assessed against the property in the form of a special tax bill, in the manner and with the same effect as special tax bills issued for the paving of streets, which special tax bill shall become a lien on the property. Alternatively, the cost of removing a billboard pursuant to this section may be made a part of a judgment by the municipal judge, in addition to any other penalties and costs imposed if the person charged either pleads guilty or is found guilty of an ordinance violation pursuant to this section.
- (19) *Severability.* If any section, subsection, sentence, clause, phrase, or portion of this section is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.
- (20) *Protection of first amendment rights.* Any billboard, display, or device allowed under this section may contain, in lieu of any other copy, any otherwise lawful, noncommercial message, including any political message, that does not direct attention to a business operated for profit or to a commodity or service for sale, and that complies with all other requirements of this section.
- (21) *Submittal of landscape plan.* Prior to issuance of a permit for erection of a billboard the applicant shall submit and receive approval of a landscape plan depicting the landscaping, billboard, lighting, and fencing around the proposed billboard to insure that the structure will be aesthetically compatible with its surroundings and the aesthetic standards of the community and neighboring property. Said landscaping shall consist of a circular base with a minimum radius measured from the center of the sign base. Said radius shall be no less than the total height of the sign, measured from ground grade at the sign structure base to the highest point of the total sign and structure. Such plans shall be reviewed and approved by the administrator and shall comply with all standards in this section.

(Ord. No. 97-2932, § 1, 8-27-97; Ord. No. 2000-3074, § 1, 3-28-2000)

See 26.0 Comprehensive sign plan

- (a) A comprehensive sign plan may be submitted to the city plan commission by the developers or owners of an existing or proposed commercial development which will occupy the entire frontage of one (1) or more block fronts when the site is zoned C-1 General Commercial District, C-2 Planned Commercial District, DB-1 Downtown Core Business District, or DB-2 Downtown Area Business District, or by the developers or owners of separate but contiguous C-1 General Commercial Districts or C-2 Planned Commercial Districts that have public cross-access roadways between the commercial districts. Such a plan shall include the location, size, height, color, lighting, and orientation of all proposed signs and any other information as required by the plan commission. The comprehensive sign plan may be submitted for approval in conjunction with the required site plans for the development. If the plan is found to be acceptable as provided for in this section, exceptions to the provisions of this chapter may be granted, providing that there is no increase in the number of pole signs allowed on the site and if such exceptions result in an improved relationship between the various parts of the plan. All comprehensive sign plans shall be approved by the city plan commission.
- (b) If approved as part of a comprehensive sign plan, the on-premises freestanding signs allowed by section 36-7(b)(2) of this chapter may include off-premises signs for the development of separate but contiguous developments in a C-1 General Commercial District or C-2 Planned Commercial District.
- (c) All comprehensive sign plans approved by the plan commission prior to the effective date of Ordinance No. 99-3053 may be followed and the city shall issue sign permits based on the approved comprehensive sign plan. Such plans may be amended or superseded by the owner or developer of any site that had such a plan by making application to and receiving approval from the plan commission for a new or revised comprehensive sign plan for such site.

(Ord. No. 97-2932, § 1, 8-27-97; Ord. No. 99-3053, § 1, 10-26-99)

Sec. 36-10. - Illuminated signs.

- (a) In residentially-zoned areas, no illuminated signs shall be permitted except permanent signs for places of worship, schools, or government-owned and operated buildings, and except for signs associated with a pre-existing nonconforming use. Signs associated with a pre-existing nonconforming use shall be subject to the regulations in subsection (b) of this section.
- (b) Illuminated signs in all areas of the city shall be subject to the following requirements:
 - (1) The light from any illuminated sign shall be shaded, shielded, and/or directed away from the residents or occupants of surrounding areas. The intensity of such light shall not exceed one-half (½) footcandle at the property line of any adjoining residentially-zoned property.
 - (2) No sign shall have blinking, flashing, or fluttering lights or other illuminating device of variable light intensity, brightness, or color, except for message boards.
 - (3) Neither direct nor reflected light from primary light sources shall create a hazard to operators of motor vehicles on public thoroughfares.

(Ord. No. 97-2932, § 1, 8-27-97)

Sec. 36-11. - Sign permits and fees.

No sign permitted under sections 36-6, 36-7 or 36-8 which is required to have a sign permit shall be erected, constructed, painted, or placed upon any building or premises within the city until a permit therefor has been issued by the director of public works or the director's designee.

No sign permit shall be issued until after an application therefor has been filed in the office of the director of public works accompanied by duplicate scale or dimensional drawings showing the plans and specifications, dimensions, the material of which the sign is to be constructed, the details of construction thereof, including loads, stresses, and anchorage, the estimated cost thereof, and, in the case of freestanding signs, the proposed location with reference to street lines and the walls of adjacent buildings, if any. When a proposed sign is to be attached to a building or other independent structure, the drawings shall show the position of the sign on the supporting structure, the method of attachment to such structure, and the character of the structural member to which such attachment is made. In addition, each sign permit application shall be accompanied by information on the size and location of all existing signs on the site.

- (2) All applications for permits to erect signs shall be filed by the owner or lessee of the premises, or shall be accompanied by written consent of the owner or lessee, of the property upon which such sign is to be erected.
- (3) If the director of public works or the director's designee fails to issue a permit after ninety (90) days of the receipt of a completed application, the applicant may appeal to the board of adjustment for issuance of the necessary permit.
- (4) The applicant must secure a building permit and pay any appropriate fees associated therewith prior to erecting any sign requiring a building permit.
- (5) The fee for sign permits shall be three (3) percent of the sign valuation plus thirty cents (\$0.30) per square foot of the area of one (1) sign face, except, however, that the minimum fee shall be forty dollars (\$40.00).

(Ord. No. 97-2932, § 1, 8-27-97; Ord. No. 2001-3124, § 1, 6-2-01)

Sec. 36-12. - Design, construction, maintenance, inspection.

All signs shall comply with the following general requirements for design, construction, maintenance, and inspection:

- (1) *Sign faces.* When a sign is allowed two (2) sign faces, the sign faces shall be parallel to one another and not more than fourteen (14) inches apart unless specifically authorized to deviate from this requirement by an applicable portion of this chapter.
- (2) *Projections.* No sign shall project beyond a property line or into a public right-of-way, except traffic control signs as authorized by ordinance, projecting signs in the DB-1, Downtown Core Business District, light pole artwork signs, and certain temporary signs specifically authorized in this chapter.
- (3) *Compliance with building codes.* Erection, construction, installation, or placement of any sign requiring a sign permit shall comply with all applicable building codes. The director of public works may deny approval of the erection, construction, installation, or placement of any sign which does not meet all minimum standards as set forth in the building codes of the city.
- (4) *Compliance with electrical codes.* Erection, construction, installation, or placement of any sign requiring utilization of electricity for light, heat and/or power shall comply with all applicable provisions of the electrical code of the City of Ferguson. The director of public works may order the disconnection of electrical services to any sign which does not meet all minimum standards as set forth in the electrical code of the City of Ferguson.
- (5)

Building permits for freestanding signs. A building permit shall be required for all on-premises, permanent, freestanding signs. Any building permit application for a freestanding sign over ten (10) feet in height shall include sealed engineering drawings of the sign and foundation including a wind-load analysis.

- (6) *Inspection of wall signs.* All wall signs shall be inspected by the city prior to being installed on a wall to ensure compliance with this chapter.
- (7) *Maintenance of signs.* All signs and related structures shall be maintained in good repair, free of rust, peeling, flaking, fading, broken, or cracked surfaces, and broken or missing letters.
- (8) *Unsafe signs.* All signs and related structures shall be maintained in a safe, clean, and attractive condition. Whenever the director of public works or the director's designee determines that a sign has become structurally unsafe, or endangers life or property, or is not being maintained in good repair, a notice shall be sent to the owner or person in charge of the sign that the sign be made safe, repaired or removed. The owner or person in charge of the sign shall have ten (10) days from receipt of such notice in which to comply.

(Ord. No. 97-2932, § 1, 8-27-97)

Sec. 36-13. - Compliance and amortization requirements.

Signs are required to be in compliance with this chapter as follows:

- (1) *New signs.* No new sign may be constructed or erected after the effective date of this chapter, unless the sign conforms to all the provisions of this chapter and any required sign permit has been issued by the director of public works. Nothing in this section shall relieve the owner or user of a nonconforming sign from the provisions of this chapter regarding safety, maintenance, and repair of signs specified in section 36-12.
- (2) *Repair or replacement of damaged nonconforming signs.* Any existing nonconforming sign that is destroyed, deteriorated, or damaged to the extent of fifty (50) percent or more of its replacement cost, exclusive of the foundation, after the effective date of this chapter, shall not be rebuilt, repaired, or replaced unless in conformity with the provisions of this chapter. Repair of such sign shall not affect provisions of any of the other paragraphs of this section.
- (3) *Alterations to nonconforming signs.* No existing nonconforming sign may be altered in structure or copy, relocated, or replaced after the effective date of this chapter.

(Ord. No. 97-2932, § 1, 8-27-97)

Sec. 36-14. - Miscellaneous requirements.

- (a) *Flags.* Flags shall be permitted in any zoning district without a permit. Each lot or parcel of land in the city shall be limited to the display of not more than five (5) flags. Parcels of land in excess of five (5) acres in size, however, may display additional flags provided that there are not more than five (5) flags displayed per five (5) acres of land area. No flag shall exceed sixty-four (64) square feet in size. Within five (5) days prior to and three (3) days following a national holiday such as Independence Day, Memorial Day, or Veteran's Day, there shall be no limitation on the number of U.S. flags displayed on any parcel of land within the city. Flag poles shall not exceed twenty-five (25) feet in height in residential districts. In other districts they shall be subject to the maximum structure height limitations.
- (b)

Sign setbacks. All permanent signs shall be set back from property lines according to the regulations specified in this chapter or as otherwise required by any other applicable city ordinance. Temporary signs shall be set back at least five (5) feet from the edge of pavement of any road and shall be located outside of the right-of-way of any city, state, or county road.

- (c) *Sign height.* No permitted freestanding sign shall exceed six (6) feet in height unless specifically authorized by an applicable section of this chapter.
- (d) *Sign frontage rules and limitations.* In determining the maximum amount of signage allowed on a nonresidential premises, sign frontage shall be the primary method of measurement. Sign frontage is defined in section 36-2. Application of sign measurement and limitations shall be as follows:
 - (1) If a premises has sign frontage on one (1) street, the total sign frontage shall be the lineal distance along the right-of-way line of the street.
 - (2) If a premises has sign frontage on two (2) or more streets, the total sign frontage shall be the sum of the lineal distance measured along the right-of-way line of not more than two (2) streets provided that the two (2) streets intersect.
 - (3) If a premises has sign frontage on two (2) parallel or roughly parallel streets, the sign frontage shall be the lineal distance along the right-of-way of one (1) of the streets.
 - (4) Any building or use specifically allowed signage on more than one (1) sign frontage shall be limited to displaying or erecting signage on only two (2) sign frontages. The third and any subsequent frontage shall be devoid of any on-premises permanent signs except for a rear entrance sign of not more than two (2) square feet in size. Moreover, when a sign is erected at the street intersection corner of a parcel and is situated at an angle so as to be visible from both streets, the sign shall not exceed the maximum area allowed for the longest street frontage.

(Ord. No. 97-2932, § 1, 8-27-97; Ord. No. 99-3031, § 2, 5-25-99)

Sec. 36-15. - Enforcement and sign removal.

- (a) *Inspection of signs.* All signs may be inspected by the director of public works or someone appointed by the director to determine if the sign is insecure, in danger of falling, or otherwise unsafe. Signs may also be inspected to ensure compliance with all provisions of this chapter.
- (b) *Notice to remove unsafe sign.* When any sign becomes insecure, in danger of falling, or otherwise unsafe, or if any sign exists or is installed or maintained in violation of the provisions of this chapter with respect to construction or safety, the owner, person, or firm maintaining such sign shall correct the deficiencies or violation or remove the sign within ten (10) days after receiving notice from the director of public works; provided, however, that if such sign constitutes an immediate danger to the public health, safety or welfare, the director of public works shall order immediate correction or removal of such sign.
- (c) *Removal of nonconforming signs.* Any sign which is not erected, constructed, or maintained in accordance with the provisions of this chapter shall be removed by the owner within fifteen (15) days of notice by the city. If the owner fails to act after fifteen (15) days' notice to the owner of the property such sign may be removed by the city and the cost thereof charged to the owner of, or person maintaining, such sign.

(Ord. No. 97-2932, § 1, 8-27-97)

Sec. 36-16. - Variances.

- (a) Where there are practical difficulties or unnecessary hardship in carrying out the strict letter of the provisions of this chapter, the board of adjustment may vary or modify the application of specific regulations for any permitted form of signage so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done.
- (b) A variance from this chapter may be granted for any permitted form of signage where it is found that because of the limitations on character, size, number, or dimensions of signs, or the regulations controlling the erection or installation of a sign, the applicant would be subject to practical difficulties or unnecessary hardship. Unnecessary hardship is not considered the loss of possible advantage, economic loss or gain, or mere inconvenience to the applicant.
- (c) The procedures and criteria for granting a variance from the regulations in this chapter shall be as set out in the zoning ordinance.

(Ord. No. 97-2932, § 1, 8-27-97)

Sec. 36-17. - Violations.

The actual costs for correction of violations incurred by the city under the provisions of this chapter shall become a lien upon the property from which the same were removed. The amount of such lien shall be added to the tax roll and collected as unpaid taxes.

(Ord. No. 97-2932, § 1, 8-27-97)

Sec. 36-18. - Severability of parts of this chapter.

The phrases, clauses, sentences, paragraphs, and sections of this chapter are severable and if any phrase, clause, sentence, paragraph, or section of this chapter shall be declared unconstitutional or otherwise unlawful by the valid judgement, decree, or injunction order of a court of competent jurisdiction, such ruling shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this chapter. In the event that, contrary to the policies, interests, and values of the City of Ferguson, a court of competent jurisdiction issues a judgment, decree, or injunction order that this chapter, or any part thereof, is unconstitutional or otherwise unlawful because of any omission or prohibition in this chapter, then all provisions of this chapter not specifically declared to be unconstitutional or otherwise unlawful shall remain in full force and effect, and all signs not already specifically regulated in the remaining valid provisions of this chapter shall be permitted, but shall not be greater than six (6) square feet. In the event that a judgment, decree, or injunction order declaring all or a portion of this chapter to be unconstitutional or otherwise unlawful is reversed or vacated by a court of competent jurisdiction, the provisions contained in this chapter shall remain in full force and effect.

(Ord. No. 97-2932, § 1, 8-27-97)

Chapter 37 - SOLID WASTE^[1]

Footnotes:

— (1) —

Cross reference— *Buildings and building regulations, Ch. 7; health, Ch. 19; solid waste disposal in mobile home parks and trailer parks, § 27-28; littering, § 29-65; solid waste, Ch. 37; utilities, Ch. 45; zoning, Ch. 49.*

ARTICLE I. - IN GENERAL

Sec. 37-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bulky wastes shall mean those items other than normal household trash including, but not limited to: abandoned cars or car parts, construction materials resulting from a home addition or alteration, whole tree removals, appliances, furniture, and any other items which cannot be safely and conveniently loaded into a solid waste transportation vehicle.

Certified recyclable materials collector means a recyclable materials collector which has been issued a certificate by the city pursuant to this division.

Collect or *collection* shall mean to take physical possession of and remove solid waste or recyclable materials at the place of generation.

Commercial facilities means any facilities that are not residential facilities or mixed use facilities.

Commercial solid waste shall mean any solid waste resulting from the operation of any commercial, industrial, institutional or agricultural establishment.

Composting means a controlled biological reduction of organic wastes to humus.

Curb collection shall mean the pickup or collection of solid waste at a point adjacent to the curbs on the property side or to the property side of the pavement if there are no curbs and within two (2) feet of the pavement. Where the sidewalk abuts the curbline, solid waste shall be placed within two (2) feet of the inside edge of the sidewalk. The solid waste shall be so placed as not to interfere with either the full use of the paved portion of the street or any sidewalk in front of the residence.

Disposal means the final deposition of waste at a permitted landfill or other permitted waste facility.

Diversion or *divert* means the reduction or elimination of solid waste from landfill disposal.

Dwelling unit shall mean any room or group of rooms located within a structure, and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.

Multifamily development shall mean a group of multiple housing facilities consisting of a collection of seventy-five (75) or more separate dwelling units, originally platted and approved as a multifamily project in accordance with the ordinances of the City of Ferguson. R-4 Planned Residences are excluded from the definition of multiple-family development.

Multiple housing facility shall mean a housing facility containing more than one (1) dwelling unit under one (1) roof.

Recycling facility means a recycling, composting, or materials recovery or reuse facility.

Residential solid waste shall mean all household waste likely to decay and usually discarded as waste matter, and all grass clippings, hedge trimmings, and tree trimmings, and dead animals of not more than ten (10) pounds weight each.

Self-haul means the process of personally, or through one's own full-time employees, collecting, transporting, and delivering one's own solid waste or recyclable materials.

Solid waste container shall mean receptacles used by any person to store solid waste during the interval between solid waste collections.

Subscriber shall mean the owner of any single-family dwelling unit, or multiple housing facility consisting of less than four (4) separate units.

Yard service collection shall mean the pickup or collection of solid waste at any reasonable location in the rear, side or front yard of a residence, but not to exceed two (2) thirty-gallon containers as defined in this section. Solid waste in excess of two (2) thirty-gallon containers shall be placed as required under "curb collection" above.

Yard waste shall mean any grass clippings, lawn clippings, shrubbery, and/or trimmings, plant and/or garden vegetation, trees and/or trimmings (including branches, fruits, nuts, seeds, pods, or leaves), or any combination of the above.

(Ord. No. 86-2147, § 1, 6-24-86; Ord. No. 92-2538, § 1, 6-9-92; Ord. No. 2009-3382, § 2, 2-24-09; Ord. No. 2009-3413, § 2, 10-13-09)

Sec. 37-2. - Division of sanitation.

- (a) *Duties.* The division of sanitation, acting through the director of public works, shall gather, receive, and dispose of all solid waste as set forth in regulations provided for in this chapter, maintain proper equipment to render such service, carry out all necessary administrative duties in connection therewith, and disseminate to subscribers pertinent information regarding regulations relative to collection and receiving of solid waste, and any changes in the regulations, or provide for these services by private licensed haulers who have contracted with the city for the purpose of collecting solid waste.
- (b) *Assistants and employees.* The director of public works shall have the power with the approval of the city manager to employ such assistants and employees as may be required, and at such salary as may be fixed by the council. The director of public works shall also have the power to employ in any emergency such employees as the public service may require, and he shall certify their accounts to the city manager.
- (c) *Additional duties.* The director of public works shall perform such other duties and exercise such other powers as may be delegated to him or to the division of sanitation.

(Ord. No. 86-2147, § 1, 6-24-86; Ord. No. 98-3001, § 1, 9-22-98; Ord. No. 98-3003, § 1, 9-22-98)

Cross reference— Departments generally, § 2-201 et seq.; records and reports, § 37-32.

Sec. 37-3. - Council regulations.

In addition to the provisions of this chapter, the council may prescribe regulations for the operations of the division of sanitation. No subscriber shall fail to comply with the regulations, a copy of which shall be furnished to each new subscriber at the time that such person applies for such service.

(Ord. No. 86-2147, § 1, 6-24-86)

State Law reference— Municipal authority to adopt rules and regulations in conformity with those of the

Sec. 37-4. - Burning or burying solid waste.

No person shall burn or bury solid waste in the city.

(Ord. No. 86-2147, § 1, 6-24-86)

Sec. 37-5. - Recycling requirements.

- (a) *Purpose.* The purpose of this division is to establish requirements for recycling of recyclable materials generated from residential facilities (both single family and multi-family), commercial facilities (including city buildings), and special events. These requirements are intended to increase the diversion of recyclable materials from landfill disposal, reduce greenhouse gas emissions, and defer potential financial obligations associated with waste to the city.
- (b) *Service Requirements.* Those who are provided with curbside recycling collection services (i.e., single-family residential) within the City of Ferguson shall be encouraged to utilize such services by separating recyclable materials from other solid waste and depositing the recyclable materials in the approved container. All owners of residential facilities containing more than three (3) separate dwelling units shall provide, in addition to typical trash hauling services, for removal of recyclable material from such property. The owners shall provide approved recyclable material containers that are clearly identified within two (2) years of the effective date of the ordinance from which this section is derived. Furthermore, all owners of commercial facilities within the City of Ferguson shall be encouraged to utilize recycling collection services.

The recyclable material removal services required by this section shall include, at a minimum, all of the following:

- (1) Collection of recyclable materials as frequently as necessary to meet demand;
 - (2) Collection of plastic bottles and jars, paper, newspaper, metal containers, cardboard, and glass containers;
 - (3) Collection of other recyclable materials for which markets exist;
 - (4) Designated recycling collection and storage areas; and
 - (5) Signage on all recycling receptacles, containers, chutes, and/or enclosures.
- (c) *Recycling at special events required.* For any community special event held after May 1, 2009, which requires any type of license or permit from the City of Ferguson, the person or entity responsible for such event shall provide recycling receptacles throughout the event venue.
- (1) The number of recycling receptacles shall equal the number of solid waste receptacles.
 - (2) The solid waste and recycling receptacles shall be placed next to one another throughout the event venue.
 - (3) The types of recyclable materials suitable for deposit into each recycling receptacle shall include, at a minimum, aluminum and metal cans, and glass and plastic bottles and jars.
 - (4) Each recycling receptacle shall be clearly identified as a recycling receptacle and shall display a list of the types of recyclable materials which may be deposited into the recycling receptacle.
 - (5) The responsible person shall ensure that the recyclable materials deposited into the recycling receptacles are as identified above.
- (d) *Exemptions.* Exemptions to some or all of the requirements of this section may be granted at the discretion of the city manager's designee. Applications for exemptions may be granted upon consideration of the following factors: available markets for recyclable materials, available space for

recycling containers, alternative recycling efforts, and the amount and type of solid waste or recyclable materials generated. To be effective, an exemption must be in writing and signed by the city manager. An exemption may be revoked at any time at the discretion of the city manager if one (1) or more of the factors justifying the exemption no longer exist, or other change in circumstances warrant revocation. Unless earlier revoked, an exemption shall be effective for a period of one (1) year from the date it was granted. Subsequent applications for exemptions may be granted at the discretion of the city manager's designee upon consideration of the factors listed in this section.

- (e) *Scavenging of recyclable materials prohibited.* No person other than an appropriate waste hauler permitted by the City of Ferguson to collect the recyclable materials, shall remove or otherwise interfere with recyclable materials which have been placed at a designated recycling or recyclable materials collection location.

(Ord. No. 2009-3382, § 3, 2-24-09)

Sec. 37-6. - Composting.

- (a) *Maintenance.* All compost piles shall be maintained using approved composting procedures to comply with the following requirements:

- (1) Compost piles without structural containment or free-standing bin will not be allowed. Each compost pile shall be no larger in volume than five (5) feet wide, five (5) feet high and five (5) feet long or one hundred twenty-five (125) cubic feet. The structural containment or bin may be larger but must allow for means of inspection. No more than three (3) compost bins shall be permitted on properties of five thousand (5,000) square feet or smaller. One (1) bin can be added for every ten thousand (10,000) square feet of additional property.
- (2) All compost piles shall be maintained so as to prevent the attraction or harborage of rodents and pests. The presence of rodents in or near a compost pile shall be cause for the city to issue a notice of violation.
- (3) All compost piles shall be maintained so as to prevent unpleasant odors. It is recognized that there will be some earthen odors associated with composting organic materials, however, these should never become distinctly repulsive and foul.
- (4) No compost pile or bin shall be located less than five (5) feet from the rear or side property line, or within twenty (20) feet of any home, patio, pool, or similar structure on the adjacent property. No compost piles shall be located in the front or side yards.
- (5) No compost pile shall be located where it will impede the natural free flow of storm water drainage.
- (6) Compost bin. Details showing overall dimensions, materials, and location on site shall be submitted for approval by the director of public works.
 - a. A permit is required before installation.
 - b. Eight (8) feet maximum height.
 - c. A five-foot setback to property lines must be maintained.
 - d. A six-foot separation is required to other buildings or accessory structure.
 - e. Bins are allowed only in rear yard areas.
 - f. Corrugated metal is not allowed.

- (b) *Ingredients.*

(1)

No compost pile shall contain any of the following: fish or fish scraps, fowl or fowl scraps, meat or other animal products except as noted in lines (2) and (3), cat manure, used litter box remains or dog manure, bones, cheese, lard, mayonnaise, milk, oils and oil-based foods, peanut butter, salad dressing, sour cream and other dairy products, whole grains (rice, wheat, barley, etc.) and items not biodegradable.

- (2) The following can be composted: leaves, paper, sawdust, straw, sod and grass clippings, vegetables, fruit peels and rinds, empty egg shells, aquatic weeds, coffee grounds, evergreen needles, fruit and their remains, organic garden waste, untreated wood and chips, and commercial compost additives.
- (3) Vegetables, fruit and their remains, egg shells, fruit peels and rinds must be composted in such a way that these materials are buried in the center of the pile so that none of these materials are exposed or visible.
- (c) *Private use only.* Compost piles established in accordance with this article are for private use only. There shall be no commercial provision of material to be composted or commercial use of the product of such composting.
- (d) *Owner responsibility.* Every owner or operator shall be responsible for maintaining all property under his or her control in accordance with the requirements of this article.

(Ord. No. 2009-3413, § 3, 10-13-09)

Editor's note— Ord. No. 2009-3413, § 3, adopted Oct. 13, 2009, set out provisions intended for use as § 37-5. Inasmuch as there were already provisions so designated, the provisions of Ord. No. 2009-3413, § 3, have been redesignated as § 37-6 at the discretion of the editor.

Secs. 37-7—37-20. - Reserved.

ARTICLE II. - SOLID WASTE STORAGE

Sec. 37-21. - Solid waste container.

The owner of every dwelling unit, multiple housing facility, and of every institutional, commercial, industrial or agricultural establishment producing solid waste within the corporate limits of the city shall provide sufficient and adequate containers as hereinafter provided for the storage of all solid waste.

(Ord. No. 86-2147, § 1, 6-24-86)

Sec. 37-22. - Placing and removing containers and solid waste for collection.

Solid waste shall not be placed in front of the building line before 5:00 p.m. on the day preceding the pickup. All containers shall be removed beyond the front building line by 10:00 p.m. of the date of the pickup.

(Ord. No. 86-2147, § 1, 6-24-86)

Sec. 37-23. - Tampering with containers and materials by unauthorized persons.

It shall be unlawful for any person other than one authorized by this chapter to remove solid wastes or recyclable materials from their containers, or to tamper with, overturn, remove lids of containers, puncture, or otherwise damage containers, bags or boxes containing solid wastes or recyclable materials.

(Ord. No. 86-2147, § 1, 6-24-86; Ord. No. 90-2427, § 1, 8-28-90)

The owner or tenant of every dwelling unit, multiple housing facility, and of every institutional, commercial, industrial or agricultural establishment shall place all solid waste to be collected in proper solid waste containers as hereinafter provided, and shall maintain such solid waste containers and the area surrounding them in a clean, neat and sanitary condition at all times.

(Ord. No. 86-2147, § 1, 6-24-86)

Sec. 37-25. - Storage of residential solid waste.

Residential solid waste shall be stored in containers of not more than thirty (30) gallons in nominal capacity; outside storage of unprotected plastic bags or paper bags is prohibited. Containers shall be leakproof, waterproof, and shall be properly covered with a tight fitting lid or sealed at all times except when depositing waste therein or removing the contents thereof. Provided, further, that disposal of dead animals, feces, and other animal matter shall be sealed in plastic bags.

All garbage, refuse and solid waste and the containers for such shall be stored in a manner to make it inaccessible to insects and rodents. Garbage, refuse and solid waste shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents.

Dumpsters shall only be allowed for large remodeling or construction projects and shall be allowed only upon proper permit issued by the city pursuant to section 37-29 of this article.

(Ord. No. 86-2147, § 1, 6-24-86; Ord. No. 2007-3298, § 1, 2-27-07)

Sec. 37-26. - Storage of solid waste in a multiple-family development.

The owner or owners of multiple-family developments shall provide for the removal of solid waste by providing dumpsters that are to be collected by private licensed haulers. These dumpsters shall hold at least one-half cubic yards per dwelling unit that said dumpsters serve, and shall be emptied no less than twice per week. Dumpsters shall be of metal construction, properly covered at all times, leakproof, and approved by the director of public works. Provided, however, that the director of public works may, upon investigation, reduce the minimum dumpster capacity requirement herein where usage is consistently found to be below the one-half cubic yard per dwelling unit requirement.

(Ord. No. 86-2147, § 1, 6-24-86)

Sec. 37-27. - Storage of commercial solid waste deposits.

Commercial solid waste shall be stored in solid waste containers as approved by the director of public works. The containers shall be waterproof, leakproof and shall be covered at all times except when depositing waste therein or removing the contents thereof.

(Ord. No. 86-2147, § 1, 6-24-86)

Sec. 37-28. - Tree limbs.

Tree limbs less than six (6) inches in diameter and brush shall be securely tied in bundles not larger than seventy-two (72) inches long and eighteen (18) inches in diameter when not placed in storage containers. Tree limbs as described herein shall be placed at the curb for collection during the regularly scheduled hours for collection on the scheduled collection days.

(Ord. No. 86-2147, § 1, 6-24-86)

Sec. 37-29. - Residential property—Dumpsters and other trash storage containers; permit; required when; fee.

- (a) No owner or occupant of any residential structure consisting of two (2) dwelling units or fewer shall allow a dumpster or trash storage container larger than that specified in section 37-25 of this article to be stored on the property without obtaining a permit and paying the fee therefore.
- (b) In the event that an owner or occupant of a residential structure desires to temporarily keep a dumpster or large trash storage container on the property because of construction or renovation, the owner or occupant may apply for a permit and pay the appropriate fee as follows:
Permit for location of dumpster on residential property for period of time as specified by director of public works\$40.00

Extension of permit for location of dumpster on residential property for additional period of time as specified by director of public works20.00
- (c) Every dumpster shall be emptied at least once every two (2) weeks or when such dumpster is full, whichever occurs earlier.
- (d) A permit may be renewed no more than two (2) times in a one-year period of time.
- (e) Application shall be made on a form approved by the director of public works.
- (f) The director of public works shall review all applications for dumpster/trash storage container permits and shall outline appropriate permit conditions in order to lessen the effect on adjoining property and ensure that the dumpster/trash storage container is screened to greatest extent possible, won't be a distraction or hazard to traffic and pedestrians and meets the requirements of this section. Such permit conditions shall include provisions for temporary location, size and type of container, weight limitations, collection times, and prohibition on certain special wastes such as toxic wastes, oils, and flammable material.
- (g) The applicant shall comply with all permit conditions as set forth by the director and the dumpster or trash storage container shall be removed immediately upon expiration of the permit.
- (h) No dumpster or trash storage container shall be placed on the sidewalk or in the right-of-way. Dumpsters and trash storage containers shall be stored on or above a smooth surface of nonabsorbent material such as concrete or machine-laid asphalt that is kept clean and maintained in good repair.
- (i) All dumpsters and trash storage containers shall be leakproof, waterproof and properly covered at all times when not in use. The property owner shall maintain such dumpsters and solid waste containers and the area surrounding them in a clean, neat and sanitary condition at all times. The areas in and around such dumpsters and containers shall be kept free from debris and blowing trash which would litter the surrounding area, neighboring properties or the right-of-way.
- (j) Failure to obtain the appropriate permit, failure to comply with permit conditions and failure to remove the container immediately upon the expiration of the permit is a violation of this chapter and is punishable pursuant to section 1-15 of the Municipal Code.

(Ord. No. 2007-3298, § 1, 2-27-07)

ARTICLE III. - CITY COLLECTION

Sec. 37-30. - Collection of solid waste.

- (a) *Single-family and certain multiple housing facility solid waste collection.* All residential solid waste collections from single-family dwelling units and multiple housing facilities consisting of not more than three (3) separate dwelling units shall be collected by the City of Ferguson or by private licensed haulers who have contracted with the City of Ferguson for the purpose of collecting solid waste.
- (b) *Commercial and other solid waste collections.* All commercial solid waste collections and residential solid waste collections from multiple housing facilities consisting of more than three (3) separate dwelling units, and all other establishments not included in subsection (a) of this section 37-30, shall be collected by private licensed haulers operating under permits granted pursuant to the provisions of section 37-51 of this chapter. All solid waste collections provided for in this subsection (b) shall be arranged for and paid by the owners of those establishments within this subsection (b).

(Ord. No. 86-2147, § 1, 6-24-86)

State Law reference— Collection, etc., of solid waste generally, RSMo 260.215.

Sec. 37-31. - Frequency of collections.

- (a) *Collections.* All residential and commercial solid wastes, other than bulky wastes, shall be collected at least two (2) times weekly unless a regularly designated collection day corresponds with a legal holiday. Upon good cause shown, the director of public works may provide that collections shall be at lesser intervals when such would not be detrimental to the health or safety of the public.
- (b) *Proof of frequency of collections.* In cases where the city has reason to believe less than the required sanitation service is being provided at a multiple housing facility consisting of more than three (3) separate dwelling units, commercial or industrial facilities, the owner upon request shall provide proof that sanitation service is being provided as required herein. An example of proof of said service shall be paid receipts from the solid waste collectors.
- (c) *Disposal of bulky wastes.* Disposal of bulky wastes not collected by the city of Ferguson shall be arranged with private haulers.

(Ord. No. 86-2147, § 1, 6-24-86)

Sec. 37-32. - Records and reports.

There may be kept and preserved within the division of sanitation by the director of public works a complete list of subscribers to the collection service as provided by the city or by private licensed haulers who have contracted with the city for the purpose of collecting solid waste. The director of public works shall keep all other books, papers, and documents connected with or relating to the business of the division of sanitation. Such records shall be subject to examination by any person seeking information therefrom, under such regulations as the council may prescribe, but shall remain the sole property of the city.

(Ord. No. 86-2147, § 1, 6-24-86; Ord. No. 94-2717, § 1, 6-28-94; Ord. No. 98-3002, § 1, 9-22-98)

Sec. 37-33. - Discontinuance of solid waste collection.

- (a) Notwithstanding anything contained in this chapter, if any subscriber, owner or occupant of any dwelling unit shall become delinquent more than ninety (90) days in the payment of any charges set forth in article IV of this chapter, then solid waste collection services to said dwelling unit shall be immediately discontinued and shall not be resumed until payment is made for all charges accrued under article IV of this chapter, including all past due solid waste collection charges and delinquency charges accrued for services to said dwelling unit.

If solid waste collection is discontinued to any dwelling unit, the subscriber, owner or occupant shall not place any solid waste outside the dwelling unit for collection as provided in this article.

- (c) The discontinuance of solid waste collection service to a dwelling unit shall cause the subscriber, owner and occupant to be in violation of this article and subject to the penalties set forth in section 37-37 of this chapter.

(Ord. No. 97-2900, § 1, 4-22-97)

Sec. 37-34. - Revocation of residential rental real estate license.

- (a) In the event any subscriber, owner, or occupant is delinquent in the payment of any charges for solid waste collection so as to cause termination of solid waste collection to any property subject to said subscriber, owner, or occupants residential rental license issued pursuant to sections 42-56 through 42-60, then any residential rental license issued pursuant to those sections, after the effective date of this section, shall be revoked. Notice of impending revocation shall be given to the subscriber, owner, or occupant by first class mail addressed to the dwelling unit and to the address designated pursuant to section 42-58 of this Code. The notice shall include the date set for appeal and a form for an appeal. The subscriber, owner, or occupant shall have ten (10) days from the postmarked date of the notice to appeal.
- (b) The recipient of a revocation notice under this section shall have the right to appeal such notice within ten (10) days from the postmarked date of such notice to the public works director. Such notice of appeal shall be filed with the city clerk on the form provided. The public works director shall have the authority to hear and decide any such appeal. The public works director has the authority to sustain or modify the determination of revocation upon the showing of good cause by the applicant. All such appeals shall be heard and decided within thirty (30) days of the date of filing of the appeal.
- (c) Revocation of the residential rental real estate license shall become effective upon an adverse determination by the public works director or upon the expiration of the time for appeal. The public works director shall notify the city manager and finance director when a residential rental real estate license has been revoked.
- (d) It shall be unlawful for any owner or subscriber to continue to lease or accept rental payments for premises when a residential rental real estate license has been revoked.
- (e) It shall be unlawful for any occupant to continue to inhabit or pay rent for premises for which a residential rental real estate license has been revoked.

(Ord. No. 97-2900, § 1, 4-22-97; Ord. No. 98-3004, § 1, 9-22-98)

Sec. 37-35. - Outstanding or delinquent charges.

No occupancy permit nor residential rental real estate license shall be issued for any dwelling unit for which there are outstanding any delinquent charges due the city for solid waste collection until all of said charges, including charges for solid waste collection and delinquency charges, are paid in full.

(Ord. No. 97-2900, § 1, 4-22-97; Ord. No. 98-3005, § 1, 9-22-98)

Sec. 37-36. - Use and placement of receptacles and solid waste for collection.

No person shall place any solid waste in any receptacle owned or used by another person for the storage of solid waste prior to pickup and disposal. No person shall place any solid waste for collection at any point adjacent to the curbs on the property-side or to the property-side of the pavement, if there are no curbs, at any dwelling unit other than the dwelling unit said person owns or occupies.

(Ord. No. 97-2900, § 1, 4-22-97)

Sec. 37-37. - Penalties.

A person convicted of any violation pursuant to sections 37-33 through 37-36 shall be punished in accordance with section 1-15, general penalty provision, of the Municipal Code of the City of Ferguson.

(Ord. No. 97-2900, § 1, 4-22-97)

Secs. 37-38—37-40. - Reserved.

ARTICLE IV. - CHARGES^[2]

Footnotes:

— (2) —

State Law reference— *Municipal authority to levy and collect charges for the collection, etc., of solid waste, RSMo 260.215(1).*

Sec. 37-41. - Service charges for city collections.

The charge for collecting, receiving, and disposing of solid waste from residences shall be the amount set forth in the contract documents between the city and private licensed haulers who have contracted with the city for the purpose of collecting solid waste. Nothing in this section shall be deemed to relieve any subscriber from the obligation to pay to the city all charges due the city for solid waste collection and all penalties, interest, and attorney's fees resulting from the subscriber's failure to pay these solid waste collection charges in a timely fashion.

(Ord. No. 86-2147, § 1, 6-24-86; Ord. No. 87-2204, § 1, 4-28-87; Ord. No. 93-2612, § 1, 3-23-93; Ord. No. 94-2683, § 1, 2-8-94; Ord. No. 95-2758, § 1, 2-28-95; Ord. No. 98-3006, § 1, 9-22-98)

Sec. 37-42. - Multiple housing facilities of less than four separate units.

In any multiple housing facility in the city in which there are less than four (4) separate dwelling units under one (1) common roof, the owner thereof shall subscribe and pay for the collection, receiving and disposing of solid waste for each unit contained in the building.

(Ord. No. 86-2147, § 1, 6-24-86; Ord. No. 93-2620, § 1, 4-27-93)

Sec. 37-43. - Reserved.

Sec. 37-44. - Payment.

All charges for solid waste collection by the city prior to October 1, 1998 shall be delinquent if not paid within thirty (30) days after becoming due. Failure to pay the charges within thirty (30) days after the due date shall result in delinquency charges being imposed amounting to one and one-half (1½) percent of the total amount of the charges for solid waste collection. This delinquency charge shall be imposed every three (3) months on any solid waste charges which are thirty (30) days past due. Failure to pay the charges within six (6) months after the due date will be cause for the city to enforce collection of solid waste charges and delinquency charges by bringing proper legal action against the owner to recover any sums due for such services, plus a reasonable attorney's fee to be fixed by the court, plus the cost of such action. Owners have the responsibility for payment of these collection charges and delinquent charges may be charged as a special tax bill and shall become a lien against the property if not paid within thirty

(30) days of the date for the special tax bill. All charges for solid waste collection by the city for services rendered prior to October 1, 1998 shall be collected by the director of finance. They shall be credited to the account of the division of sanitation.

(Ord. No. 86-2147, § 1, 6-24-86; Ord. No. 92-2530, § 1, 5-12-92; Ord. No. 96-2824, § 1, 3-12-96; Ord. No. 98-3007, § 1, 9-22-98)

Sec. 37-45. - Reserved.

Editor's note— Section 1 of Ord. No. 98-3007, adopted Sept. 22, 1998, repealed § 37-45 which had pertained to collection and disposition of solid waste collection charges and derived from Ord. No. 86-2147, adopted June 24, 1986.

Secs. 37-46—37-50. - Reserved.

ARTICLE V. - COMMERCIAL COLLECTION

Sec. 37-51. - License required.

Private persons or corporations may be licensed to collect commercial solid waste at no cost to the city. No person shall collect commercial garbage and rubbish without a license. Such license shall be issued for the public convenience and necessity by the city manager upon presentation of the following information by the applicant and the finding by the city manager that the applicant has complied with the following:

- (1) *Application.* The applicant shall file with the city manager a written application setting forth the applicant's name, address, listing of all equipment to be used in the city, giving the type, model, year, capacity of packer trucks, and such other information as the city manager shall require, and a schedule of rates and charges showing all regular charges for various types of service. The applicant shall refile such schedule whenever any changes shall occur. The application shall also include a list by name and address of all customers within the city limits, including type of service to be rendered and charges for such service to each such customer.
- (2) *Fees.* Attached to the application shall be a cashier's check, payable to the city in the amount of two hundred dollars (\$200.00) for full year applications; in the amount of one hundred fifty dollars (\$150.00) for applications filed after March 31; in the amount of one hundred dollars (\$100.00) for applications filed after June 30; or in the amount of fifty dollars (\$50.00) for applications filed after September 30. If the city manager shall issue the license, the fee shall be deposited with the director of finance for credit to the account in the sanitation division. If such license is not issued, then such check shall be properly endorsed and returned to the applicant. If so licensed, the fee shall be paid annually and shall be due on December 1 of each year for the calendar year beginning January 1 next.
- (3) *Certificate of insurance.* Also attached to the application shall be a valid certificate of insurance for public liability insurance in the sum of at least one hundred thousand dollars (\$100,000.00) for any one (1) person, and the sum of at least three hundred thousand dollars (\$300,000.00) for more than one (1) person, for each accident, and in the sum of at least one hundred thousand dollars (\$100,000.00) for property damage for each accident. Such applicant must be covered or show compliance with the worker's compensation laws of the state.

(Ord. No. 86-2147, § 1, 6-24-86)

Sec. 37-52. - Regulatory provisions.

- (a) *Adopted.* The following regulations adopted in this section may be hereinafter changed by the council and shall be followed and obeyed by all licensees to collect commercial solid waste. Failure to comply with such regulations shall be grounds for revocation of the license or for refusal of the city manager to reissue a license to such licensee.
- (b) *Disposal.* Collectors shall not dispose of any solid waste within the city limits unless such disposal is part of a transferring operation when the final destination of the garbage and rubbish is outside the city or to a properly operated incinerator.
- (c) *Time of collections.* Collections shall not be made before 6:30 a.m. or after 5:00 p.m.
- (d) *Trespassing.* Licensee's employees shall not trespass, or cross property to adjoining premises or meddle with property that does not concern them, or enter any house, garage, or other building to collect solid waste, or enter any yard which has a locked gate.
- (e) *Sanitary methods.* The collectors shall provide for the removal of solid waste in a manner wholly free from offense to public health, and shall be subject to all reasonable health regulations.
- (f) *Vehicles.* The vehicles used for collection of commercial solid waste shall be substantial vehicles, plainly marked and maintained in presentable condition which shall be leakproof and so constructed as to prevent falling, spilling, or leaking and shall be covered at all times except when loading and shall in all respects comply with city and county requirements for such equipment.
- (g) *Containers.* All containers used for the storage of commercial garbage and rubbish shall be watertight, with tight-fitting lids and shall be maintained by their owner in a manner wholly free from offense to public health and subject to all reasonable health regulations.
- (h) *Frequency of collections.* At any commercial establishment where any garbage or putrifiable waste is stored, the owner or operator shall provide for collection of such garbage and wastes on at least a twice weekly basis.
- (i) *Littering.* Waste, including paper, cardboard boxes, and other such materials, shall be stored before collection by the owner in such manner that it cannot be moved by others or scattered and blown by wind upon the property of others or upon public property.

(Ord. No. 86-2147, § 1, 6-24-86)

Chapter 40 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES^[1]

Footnotes:

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Charter reference— *Public improvements, Art. X; competitive bedding, § 11.7; contracts, § 11.8; condemnation proceedings, § 11.9.*

Cross reference— *Ordinance relating to the dedication, opening, grading, improvement, altering, widening or vacating of any street, alley, sidewalk, public place saved from repeal, § 1-8(11); buildings and building regulations, Ch. 7; conditions for street occupancy by cable television franchisees, § 9-94; flood plain management, Ch. 18; littering, § 29-65; parks and recreation, Ch. 30; peddlers and solicitors, Ch. 32; redevelopment procedures, Ch. 34; subdivision regulations generally, Ch. 41; design standards for streets and subdivisions, § 41-16 et seq.; improvements for streets in subdivisions, § 41-98 et seq.; traffic and motor vehicles generally, Ch. 44; play streets, § 44-7; placing injurious substance in streets, § 44-14; closing streets to public use, § 44-47; driving vehicles on sidewalks, § 44-90; riding bicycles, motorized bicycles on sidewalks, § 44-365; utilities generally, Ch. 45; poles and wires, § 45-31 et seq.; zoning, Ch. 49.*

State Law reference— *Exclusive municipal control over highways, streets, avenues, alleys and public places, RSMo 82.190.*

ARTICLE I. - IN GENERAL

Sec. 40-1. - Numbering buildings.

- (a) For the purpose of numbering buildings in the city, Florissant Boulevard is designated as the east-west dividing line, Carson Road is designated as the north-south dividing line west of Florissant Boulevard and Church Street and the prolongation eastward of the north curb line thereof is designated as the north-south dividing line east of Florissant Boulevard. Commencing at the dividing lines numbering shall begin with the figure "1" on the north and west sides of the streets and the figure "2" on the south and east curbs of the streets. All odd numbers shall be on the north and west sides of the street and all even numbers shall be on the east and south sides of the street. Except as directed by the director of public works, numbers shall be allotted to each twenty-five (25) feet of ground.
- (b) The owners of all residential and commercial buildings shall have the numbers of their street addresses conspicuously posted thereon, or else upon their mailbox or mailbox post when such mailbox is located adjacent to the street in front of their building, so that the addresses will be readily visible to traffic from each direction on the street. The address numbers shall be of a height in accordance with section 7-133(a) of this Code, and shall be of either arabic numbers or in English language script. Provided, however, before anyone can be found to have violated the provisions hereof, said person shall be given a minimum of fifteen (15) days' written notice by the Ferguson Fire Department to comply with the requirements of this section. The Ferguson Fire Department shall make periodic inspections of all residential and commercial buildings within the city to insure compliance with the requirements of this regulation.

(Code 1973, § 10.13; Ord. No. 91-2466, § 1, 3-26-91; Ord. No. 91-2468, § 1, 5-14-91)

Sec. 40-2. - Placing materials on streets.

- (a) *Permit required.* No person shall deposit building material or any material or object on any street, sidewalk or alley in the city without a permit from the director of public works.
- (b) *Area blocked.* No person shall block with any material or object, more than one-half of any sidewalk or tree lawn, or more than one-third of any roadway or alley.
- (c) *Warning lights.* No person shall permit any material or other object to stand on any street, alley or sidewalk after sundown, without placing on or about such obstruction lights to adequately warn any person of such obstructions from sunset to sunrise.

(Code 1973, § 10.01(a), (b), (d))

Sec. 40-3. - Prohibited acts.

- (a) *Obstructing street.* No person shall erect, construct, place or maintain any bumps, fences, gates, chains, bars, pipes, wood or metal horses or any other type of obstruction in or on any street, within the city limits.
- (b) *Obstructing gutters, alleys.* No person shall obstruct the free passage of water in any gutter or alley with any material or object.
- (c) *Injuring streets, etc.* No person shall remove, tear up, deface or otherwise destroy or injure any bridge, culvert, sidewalk, pavement, curb, sewer, lamp post, lamp, street sign, or other property in or upon any street of the city without authority to do so.
- (d)

Injury to trees. No person shall wilfully or intentionally injure, deface, trim or destroy any tree growing upon or along any street or alley within the city, without the written permission of the director of public works.

- (e) *Dumping or removing material.* No person shall take from or deposit on any street, alley, sidewalk or other public place of this city, or on any property not owned or controlled by him, without having authority to do so, any turf, loam, gravel, rock, yard waste or any other materials.
- (f) *Barbed wire fences.* No person shall erect, construct, maintain or use any fence composed of barbed wire along any street or sidewalk within the city.
- (g) *Removal of engineer's stakes.* No person shall remove or otherwise interfere with the stakes or other markers set by the city engineer to designate the grade or line of any street improvement, or construct or cause to be constructed in the city any sidewalk, curb or gutter on a grade other than the grade designated by the city engineer, after such grade has been designated by him.

(Code 1973, §§ 10.01(c), 10.04—10.06, 10.09, 26A.18; Ord. No. 92-2539, § 1, 6-9-92)

Sec. 40-4. - Removing obstructions and repairing damage.

The director of public works may open or clean out any gutter, drain, street inlet or manhole that may become obstructed by material or objects, or repair any damage caused by such material or objects to any street, alley or sidewalk when the person responsible therefor does not remove such obstruction or make such necessary repairs within twenty-four (24) hours after being notified.

(Code 1973, § 10.01(f))

Sec. 40-5. - Driveways.

- (a) *Permit to Construct.* No person shall construct a driveway approach without a permit from the director of public works. The application for such permit shall state briefly the nature and method of construction to be used in making the necessary driveway approach. The director shall, upon approval of the plans for the driveway, issue the permit.
- (b) *Defective Driveways.* Any owner or lessee of property which has a defective driveway approach that does not provide adequate drainage of surface water shall remedy such defect within fifteen (15) days after being notified by the council.

(Code 1973, § 10.12)

Sec. 40-6. - Obstructions near intersections.

- (a) The owner of any corner lot in the city which abuts upon two (2) intersecting streets, on which lot a front yard and a side yard, or a front yard only, are required by the ordinances of the city, shall not erect, place or maintain any fence, wall, sign, hedge, shrub, tree or other visual obstruction within that portion of such lot lying between the point of intersection of the property lines abutting upon such intersecting streets at such corner and a line connecting points upon each of such intersecting property lines of such lot, at least thirty (30) feet distant from the point of intersection of such lines on streets forty (40) feet wide or less, at least twenty-five (25) feet distant from the point of intersection of such lines on streets fifty (50) feet wide and at least twenty (20) feet from the point of intersection on streets sixty (60) feet wide, which obstruction obscures the clear view of drivers of vehicles approaching upon the intersecting streets.
- (b) If there is a building line nearer than the distances specified for the various width streets, no such obstructions are permitted between the building line and the street.

Where such obstructions exist it shall be the duty of the director of public works to notify the owner to remove same.

(Code 1973, § 10.02)

Cross reference— Traffic right-of-way, § 44-141 et seq.

Sec. 40-7. - Designation of "safe streets".

- (a) The director of public works, after consultation with the chief of police, shall designate certain streets within the city to be "safe streets". In determining whether a street shall be so designated, the director shall consider:
 - (1) Pedestrian use and existing accommodations for pedestrians;
 - (2) Traffic volume and congestion;
 - (3) Traffic flow;
 - (4) Adjacent uses of property; and
 - (5) History of incidents including car or pedestrian accidents resulting in property damage or personal injury.
- (b) Streets included within school speed limit zones, as such are set forth in section 44-504 of this Code, shall automatically be designated as "safe streets".
- (c) Upon designation, the director of public works shall:
 - (1) Send the list of "safe streets" to the municipal prosecutor, municipal court clerk and the municipal judge for consideration in enforcement of traffic regulations in the municipal court;
 - (2) Make recommendations to the city council with regard to speed limits, the use of traffic control devices and other traffic regulations;
 - (3) Consider the designation when issuing permits or reviewing development and site plans where street access or traffic conditions may be altered, increased or otherwise impacted.

(Ord. No. 2005-3246, § 1, 9-13-05)

Sec. 40-8. - Complete streets policy.

- (a) *Purpose.* The purpose of this policy is to set forth guiding principles and practices to be considered in public transportation projects, where practicable, economically feasible, and otherwise in accordance with applicable law, so as to encourage walking, bicycling and transit use while promoting safe operations for all users.
- (b) *Application and scope.* While this policy does not require certain designs or construction standards and does not require specific improvements, this policy does require the city manager to consider complete street elements in the design, construction and maintenance of public transportation projects, improvements and facilities in addition to other considerations including, but not limited to cost of improvements, budget for the project, space and area requirements and limitations and legal requirements and limitations.
- (c) *Guiding principles and practices.*
 - (1) "Complete street" defined. A complete street is designed to be a transportation corridor for all users: pedestrians, cyclists, transit users, and motorists. Complete streets are designed and operated to enable safe continuous travel networks for all users. Pedestrians, bicyclists, motorists and bus riders of all ages and abilities are able to safely move from destination to destination along and across a network of complete streets. Transportation improvements, facilities and

"complete street" include: street and sidewalk lighting; pedestrian and bicycle safety improvements; access improvements, including compliance with the Americans with Disabilities Act; public transit facilities accommodation including, but not limited, to pedestrian access improvement to transit stops and stations; street trees and landscaping; drainage; and street amenities.

- (2) The city will strive, where practicable and economically feasible, to incorporate one (1) or more "complete street" elements into public transportation projects in order to provide appropriate accommodation for bicyclists, pedestrians, transit users and persons of all abilities, while promoting safe operation for all users, in comprehensive and connected networks in a manner consistent with, and supportive of, the surrounding community.
 - (3) The city will strive to incorporate complete streets principles into all public strategic plans, upon subsequent updates. The principles, where practicable, shall be incorporated into other public works plans, manuals, rules, regulations and programs as appropriate and directed by the city manager.
 - (4) It shall be a goal of the city to foster partnerships with the State of Missouri, St. Louis County, neighboring communities, Ferguson Business Districts and Neighborhood Associations in consideration of functional facilities and accommodations in furtherance of the city's complete streets policy and the continuation of such facilities and accommodations beyond the city's borders.
 - (5) The city recognizes that complete streets may be achieved through single elements incorporated into a particular project or incrementally through a series of smaller improvements or maintenance activities over time. The city will attempt to draw upon all possible funding sources to plan and implement this policy and shall investigate grants that may be available to make complete streets elements more economically feasible.
- (d) *Study/analysis to be undertaken as part of public transportation project.* During the planning phase of any public improvement project, a designee of the city manager (which may be the director of public works, the city's design engineer, or other person or firm deemed appropriate by the city manager) shall conduct a study and analysis relating to the addition and incorporation of one (1) or more complete streets elements into the public transportation project.

The study and analysis shall include cost estimates, whether the elements could be incorporated in a safe manner, the degree that such improvements or facilities may be utilized, the benefit of such improvements or facilities to other public transportation improvements, whether additional property is required, physical or area requirements or limitations and any other factors deemed relevant.

Such study and analysis shall be submitted to the city manager for consideration in the design and planning of the public transportation project. The city manager shall consider the incorporation of one (1) or more complete streets elements in each public transportation project to the extent that such is economically and physically feasible.

(Ord. No. 2008-3375, § 1, 11-18-08)

Secs. 40-9—40-15. - Reserved.

ARTICLE II. - EXCAVATIONS^[2]

Sec. 40-16. - Permit required.

No person shall make any excavation on any street, alley or other public place, or on any public easement or right-of-way, without a permit from the director of public works.

(Code 1973, § 10.03(a))

Sec. 40-17. - Deposit required.

- (a) Before an excavation permit shall be granted, the applicant shall deposit with the director such sum as, in the judgment of the director, will be sufficient to restore the street or other public place in as good condition as it was before the excavation was made, and to pay all inspection fees incurred.
- (b) The director of public works shall retain out of the amount deposited a sufficient amount to cover the cost of superintendence and inspection of the work authorized under the permit, at the rate of four dollars (\$4.00) per hour of actual time consumed in such superintendence and inspection.
- (c) The balance of the deposit, if any, shall be returned to the depositor not later than six (6) months after the work has been completed and the place restored to its original condition.
- (d) If the area is not restored, the director of public works may cause it to be restored, and pay for such work out of the deposit, and any unexpended balance will be refunded to the depositor.

(Code 1973, § 10.03(b))

Sec. 40-18. - Safety measures.

- (a) *Barriers and lights required.* Every person who shall make any excavation in or adjoining any street, alley or public place, or on any public easement or right of way shall maintain barriers to prevent persons, animals or vehicles from falling into such excavation, and shall maintain red warning lights about such excavation from sunset to sunrise.
- (b) *Covering over sidewalk excavations required.* Whenever any person excavates the sidewalk of any street, he shall place a strong and suitable footbridge over such excavation in the line of the sidewalk at least five (5) feet wide and securely anchored on each end.

(Code 1973, § 10.03(c), (d))

Sec. 40-19. - Backfilling.

- (a) *Method.* Excavations in any surfaced streets, whether a permanent or temporary surfacing, shall be backfilled with a granular material from a depth one (1) foot above the utility or service line for which the excavation is made, to within eight (8) inches of the surface around the excavation, for the full length of the excavation. The entire filled excavation shall be entirely inundated with water for a period of thirty (30) minutes. The remaining eight (8) inches of the excavation shall consist of six (6) inches of one (1) inch minus crushed stone and two (2) inches of asphaltic concrete.
- (b) *Notice of readiness for inspection to be given.* It shall be the duty of the person obtaining the excavation permit to notify the director of public works that the excavation is ready for inspection at the time the remaining fill of six (6) inches is ready for completion.

(Code 1973, § 10.03(e))

Secs. 40-20—40-30. - Reserved.

ARTICLE III. - SIDEWALKS^[3]

Footnotes:

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State Law reference— Regulations pertaining to sidewalks in cities of 30,000 or less, RSMo 88.897 et seq.

Sec. 40-31. - Construction specifications.

- (a) *Generally.* The specifications of this section apply whether the sidewalk is constructed by the property owner or by the city.
- (b) *Summary of work to be done.* The work to be done in the construction of sidewalks consists of grading and preparing the ground for the superstructure, furnishing and placing a foundation of cinders and a one (1) course concrete sidewalk pavement, with all incidental work necessary to render such walk complete and efficient.
- (c) *Width; distance from property line.* All concrete sidewalks constructed in the city shall be not less than four (4) feet wide, unless in the opinion of the council, unnecessary and undue hardship will result to the abutting property owner by reason of such requirement. In such instances the council may authorize the construction of concrete sidewalks of a lesser width but not less than three (3) feet. The inner side of the sidewalk shall be one (1) foot from the property line, unless the council authorizes a variance of such distance to prevent unusual hardships.
- (d) *Materials.* The following requirements shall be met in the materials used in the construction of sidewalks:
 - (1) *Inspection.* All materials to be used in sidewalk work shall be inspected before they are laid. All rejected material shall be immediately removed by the contractor.
 - (2) *Cement.* All cement used in sidewalk construction shall be Portland cement of some known and accredited brand. The cement shall be the finely pulverized product resulting from the calcination to incipient fusion of an intimate mixture of properly proportioned argillaceous and calcareous materials and to which no addition greater than three (3) percent has been made subsequent to calcination.
 - (3) *Chemical properties of cement.* The following limits for the chemical properties of the cement used to construct a sidewalk shall be not exceeded:

<i>Property</i>	<i>Percent</i>
Loss on ignition	4.00
Insoluble residue	0.85
Magnesia (Mg O)	5.00
Sulphuric Anhydride (SO ₃)	2.00
 - (4) *Physical properties of cement.* The cement used to construct a sidewalk shall have the following physical properties:
 - a. *Specific gravity.* The specific gravity of cement used to construct a sidewalk shall not be less than three and ten hundredths (3.10).
 - b. *Fineness.* The residue on a standard #200 laboratory sieve shall not exceed twenty-two (22) percent by weight.
 - c. *Soundness.* A pat of neat cement shall remain firm and hard and show no signs of distortion, cracking, checking or disintegration in the steam test for soundness.

- d. *Time of setting.* The cement must not develop initial set in less than thirty (30) minutes, and must develop hard set in not less than one (1) hour nor more than ten (10) hours.
- e. *Tensile strength.* The average strength in pounds per square inch of not less than three standard mortar briquettes composed of one (1) part of cement and three (3) parts of standard sand by weight, shall be equal to or higher than the following:

Age of Test Days	Storage	Tensile Strength in Lbs. per sq. in.
7	1 day in moist air 6 days in water	225
<u>28</u>	1 day in moist air 27 days in water	325

- (5) *Fine aggregate.* The fine aggregate in concrete used in sidewalk construction shall be clean river sand. The sand shall be of such size that not more than five (5) percent shall be retained on a #4 mesh sieve, not more than twenty (20) percent shall pass a #50 mesh sieve, and not more than three (3) percent shall pass a #100 mesh sieve. The coarse particles shall predominate.
- (6) *Course aggregate.* Materials to be used as coarse aggregate shall be either washed gravel or crushed granite, and shall be screened to such size that all pieces will pass through a ring of seventy-eighths inch openings and be retained on a screen of three-sixteenths inch openings and shall be uniformly graded between these limits.
- (7) *Depositive aggregate.* Both fine and coarse aggregate must be deposited on a clean hard surface. If no such place is available, it must be deposited and kept on planks laid close together.
- (e) *Tools.* The contractor shall furnish and have on the line of the work at all times a complete and sufficient supply of tools and materials to carry out the work in an expeditious and workmanlike manner.
- (f) *Concrete.* Concrete shall be mixed by volume in proportions specified by the director of public works. In all cases the amount of water to be used shall be determined by the director. The material shall be mixed with sufficient water to produce a concrete which will hold its shape when struck off with a strike board, and which will flush readily under slight tamping, but which can be handled without causing a separation of the coarse aggregate from the mortar.
- (g) *Method of construction.* The method of construction of sidewalks shall be as provided in specifications and regulations on file in the office of the director of public works.
- (h) *Protection of service devices.* The contractor shall attend carefully to all public service devices such as stopboxes for water or gas supply or any other objects of such a character that may be found within the area of the sidewalk under construction, by setting them at such a height as to bring the top of such device in each case flush with the top of the finished walk, so that they may be accessible and usable after the completion of the walk.
- (i)

Determining amount and quality of work. The director of public works shall in all cases determine the amount and quality of the work to be paid for under this section. He shall also decide all questions which arise relative to the execution of the work on the part of the contractor. His estimates and decisions shall be final.

(Code 1973, § 10.11)

Sec. 40-32. - Cleaning.

Every person shall keep the sidewalk in front of the real property owned, occupied or possessed by him, or under his management or control, clean of mud, filth, dirt or snow. A reasonable time shall be allowed in which to remove any snow, ice or dirt after it has accumulated.

(Code 1973, § 10.10)

Sec. 40-33. - Sidewalk and driveway repairs.

It shall be the duty of every owner of real estate in the City of Ferguson, or agents in control thereof, to keep the sidewalks and driveway entrances on or adjacent to said real estate in good repair at all times and free from irregularities and offsets in the surfaces thereof which may render them unsafe for use.

(Ord. No. 85-2109, § 1, 11-12-85)

Sec. 40-34. - Publication distribution devices restricted.

(a) *Definitions.*

Custodian. Any person, firm or corporation which owns, places, services or places publications in any publication distribution device on the sidewalks of the City of Ferguson.

Publication distribution device. Any vending machine, newspaper stand or device which is used for the sale or distribution of newspapers, publications, pamphlets, flyers or any documents of any kind to the public.

Sidewalks. Any of the public sidewalks located within the City of Ferguson excluding those sidewalks located entirely on private property and not subject to the City of Ferguson's rights-of-way or easements.

- (b) *Identification.* All publication distribution devices shall have the custodian's name, address and telephone number in a prominent, easily visible place on the exterior of the device.
- (c) *Distance from other publication distribution devices.* No publication distribution device shall be installed on a public sidewalk if the installation would cause it to be within fifty (50) feet in any direction of another publication distribution device. If at the time of the passage of this section there are publication distribution devices that are within fifty (50) feet of each other, they shall be permitted to remain at their current locations; however, should they be removed for any reason they may not be replaced on the sidewalks if their replacement would cause them to be within fifty (50) feet in any direction of another publication distribution device.
- (d) *Construction and maintenance.* All publication distribution devices shall be constructed and maintained so as to prevent the contents from being exposed to the weather and elements. Each device shall contain a door or distribution portal that is constructed so that it automatically closes securely after opening to prevent the publications inside from falling or blowing out of said device onto the public sidewalks or streets of the City of Ferguson. All such devices shall be maintained in a

good and proper presentable manner and shall not have broken glass, plastics or other materials on or about said device. No device shall be permitted to have peeling paint, rust or to be in any state of disrepair.

- (e) *Placement.* No publication distribution device shall be placed on a sidewalk so as to unreasonably interfere with or impede pedestrian or vehicular traffic and must not extend any more than eighteen (18) inches onto the travel portion of the sidewalk and must leave at least four (4) feet of unobstructed travel portion of the sidewalk. No device may extend in any way onto any street or parking area along streets or parking lots.
- (f) *Security.* No publication distribution device shall be attached or secured in any way to the sidewalks, telephone poles, street lamps and poles and other property not owned by the custodian unless the custodian receives written permission from the owner of the property to which the device is to be attached and files that document with the director of public works of the City of Ferguson.
- (g) *Registration of publication distribution devices.* Before any publication distribution device is placed on any sidewalk, within the City of Ferguson, the custodian shall notify the director of public works as to the specific location of the proposed placement of the device and in writing identify the custodian or other person responsible for the device by name, address and telephone number. Any publication distribution device that is placed on a public sidewalk within the City of Ferguson as of the date of this ordinance must comply with this provision of registration within sixty (60) days of the passage of this section.
- (h) *Failure to comply.* Failure to comply with any of the provisions of this section governing publication distribution devices shall subject the device to removal by the City of Ferguson from the public sidewalks. Said removal shall be done no later than seven (7) days after the mailing of a notice to the custodian at the address as registered with the city. If the device is creating a emergency situation that endangers the health, safety or welfare of the citizens of the City of Ferguson then the device may be removed without prior notice. If the city does remove a device without prior notice it shall within five (5) days of the removal to notify the custodian that the device has been removed and the device's location. Any publication distribution device that has been removed by the City and is not retrieved by the custodian within twenty (20) days after the date of removal, shall be disposed of by the city at its discretion and without compensation to the custodian or any other person.

(Ord. No. 2001-3134, § 1, 10-23-01; Ord. No. 2001-3138, § 1, 11-27-01)

Sec. 40-35. - Encroachment on sidewalks for dining purposes.

- (a) *Purpose.* These provisions are designed to encourage appropriate outdoor activities in the public right-of-way, to ensure that the space used for outdoor dining in the public sidewalk will serve a public purpose, to ease the process of obtaining permission to operate an outdoor dining facility, and to ensure adequate space for pedestrians on the sidewalk adjacent to sidewalk cafes.
- (b) *Application.* The regulations, restrictions and permitting provisions set forth in this section shall apply to any outdoor dining area, including furniture and improvements, established on a public sidewalk adjacent to a food service establishment regardless of whether table service is provided by the establishment or food and drinks are sold by the establishment as take-out items which may be consumed in the outdoor dining area.

These regulations do not apply to outdoor dining on private property.

- (c) *Definitions.* For purposes of this section the following terms shall mean:

Sidewalk cafe. An outdoor dining area on a public sidewalk where patrons may consume food and/or beverages provided by an abutting food service establishment. Such establishments may either provide table service in the outdoor dining areas or sell take-out items to be consumed in the outdoor dining area.

- (d) *Permit required.* Outdoor dining on a public sidewalk may occur only pursuant to a sidewalk cafe license encroachment permit (hereinafter "encroachment permit").

Furniture and improvements may only be installed on a public sidewalk pursuant to a valid encroachment permit.

- (e) *Restrictions, limitations.*

- (1) *Prohibited locations.* Outside dining will not be permitted on sidewalks prohibited by city council.
- (2) *Zoning requirements.* Outdoor dining on a public sidewalk shall be subject to the requirements and limitations set forth in Chapter 49 of the Ferguson Zoning Ordinance.
- (3) *Other permits.* This permit is issued in conformance with Chapter 40 of this Code relating to public sidewalks and right-of-way. The issuance of an encroachment permit shall not be construed as a food service permit or any other permit which may be required for the particular operation. Business owners are responsible for securing and complying with all required licenses and permits from the city and other agencies including the Missouri Division of Alcohol and Tobacco Control and the County Health Department.

- (f) *Application.*

- (1) An application for an encroachment permit shall be filed with the public works department on a form provided by the public works department.
- (2) The application shall be signed by the owner of the property, or his authorized agent. Authorized agents shall submit written authorization.
- (3) The application shall be accompanied by a site plan, drawn to scale and fully dimensioned, which accurately depicts the location, height, nature and extent of all proposed improvements and objects within the encroachment zone. All fixed features such as tree wells, sign posts, parking meters, fire hydrants, street lights, etc. within twenty (20) feet of the encroachment zone shall be depicted on the site plan.
- (4) The application and accompanying site plan shall clearly indicate how the sidewalk cafe will comply with the development standards, design standards and conditions and limitations set forth in this section.

- (g) *Consideration of application and issuance of permit.*

- (1) *Authority of the public works director; appeal.*
 - a. The location and configuration of any sidewalk cafe shall be subject to approval by the public works director, who shall consider public safety issues unique to the pedestrian and vehicular needs of the specific location when reviewing encroachment permit applications. Notwithstanding any other provisions of this policy, the public works director shall have the authority to deny any encroachment permit application or revoke any existing permit if it is determined to be detrimental to public health, safety or general welfare.
 - b. The public works director may request any additional information from the applicant if additional information is needed to ensure that the requirements, limitations and conditions of this section will be met.

- c. The decision of the public works director may be appealed to the city manager by the applicant. The decision of the city manager shall be final.

(2) *Permit conditions.*

- a. The public works director shall place appropriate conditions on the permit to protect the health, safety and welfare of the public and to ensure compliance with this section and other provisions of the City Code or state or federal law.
- b. All encroachment permits are subject to the following general conditions:
 - 1. *No alterations.* The floor of the outdoor dining area shall be maintained at the same level as the sidewalk, and no alterations to the sidewalk or coverings on the sidewalk (e.g., borings for recessed sleeves) shall be installed unless expressly approved by the public works director.
 - 2. *Disabled access.* The outdoor dining area shall be accessible to the disabled, and buildings adjacent to these dining areas shall maintain building ingress and egress as may be required by applicable building codes and building ingress and egress for the disabled as required by the Americans with Disabilities Act.
 - 3. *Adjacent sidewalk.* In addition, the permittee shall ensure that sidewalk cafe patrons do not disturb persons on the adjacent right-of-way by loud, boisterous, and unreasonable noise, offensive words or disruptive behavior.
 - 4. *Maintenance.* Restaurant management shall keep the outdoor dining area clear of litter, food scraps, and soiled dishes and utensils at all times. Trash receptacles shall be provided in outdoor dining areas used for consuming take-out items unless public trash receptacles located nearby are determined to be adequate by the public works director. At the end of each business day, establishments are required to clean (sweep and wash) the entire sidewalk in and around the outdoor dining area and remove debris to a closed receptacle. No debris shall be swept, washed, or blown into the sidewalk, gutter or street. Awnings and umbrellas shall be washed whenever they are dirty and, in any event, no less than two times each year. Private trash receptacles shall be emptied daily.
 - 5. *Furniture removal.* When the establishment stops serving for the day and patrons already seated in it leave, further seating in the outdoor dining area shall be prohibited and the outdoor dining furniture shall be removed from the right-of-way unless otherwise approved in the encroachment permit.
 - 6. *Plans and permits.* All city-approved plans and permits for the outdoor dining area shall be kept on the premises for inspection at all times when the establishment is open for business.
 - 7. *Smoking.* Restaurant management may permit or may prohibit smoking in the outdoor dining area in accordance with all applicable statutes and regulations.
 - 8. *Indemnification.* The permittee shall defend, indemnify and hold the city and its employees harmless from and against any loss or damage arising from the use or existence of the improvements or encroachment authorized under an encroachment permit. prior to issuance of any encroachment permit, the permittee shall sign an appropriate indemnification agreement which shall be incorporated into the permit.

- (3) *Insurance required.* No encroachment permit shall be issued until the applicant has submitted both the certificate of insurance and the completed standard special endorsement as required by

The permittee shall obtain and maintain, at its sole cost and expense, general liability insurance in full force and effect for the outdoor dining area, in standard form generally in use in the State of Missouri with insurance companies having a current "Best" rating of not less than 'A' and a financial rating not less than Class VII and authorized to do business in the State of Missouri in the amount of five hundred thousand dollars (\$500,000.00) for any accident or occurrence resulting in bodily injury to or death of one person in an amount of at least two million dollars (\$2,000,000.00) for any accident or occurrence resulting in bodily injury to or the death of more than one person, and comprehensive property damage insurance covering liability for damage to all property from any accident or occurrence in an amount of not less than two hundred fifty thousand dollars (\$250,000.00). Executive copies of said policies of insurance, or certificates thereof, shall be delivered to the city at the time said permit is issued and thereafter within thirty (30) days prior to the expiration of the term of each such policy, a renewal or replacement insurance policy, or certificate thereof, shall be delivered to the city. In addition to the delivery of policies, or certificates, at the same time the permittee shall deliver to the city proof of payment of the premiums for said policies. As often as any such policy shall expire or terminate, renewal or additional policies shall be procured and maintained by the permittee in like manner and to like extent. All said policies of insurance delivered to the city must contain a provision that the company writing said policy will give the city twenty (20) days notice in writing in advance of any cancellation, a lapse or reduction in the amount of insurance. All of said policies of insurance must contain a provision naming the city, its agents, employees, quests and invitees, as an additional insured.

(h) *Development standards for sidewalk cafes.*

- (1) *Horizontal clearance.* A clear, continuous pedestrian path not less than four (4) feet in width shall be required for pedestrian circulation outside of the outdoor dining area, provided that the public works director may require more than four (4) feet if necessary to protect the public safety. As used herein, pedestrian path means a continuous obstruction-free sidewalk area, paved to city standards, between the outside boundary of the dining area and any obstruction, including but not limited to parking meters, street trees, landscaping, street lights, bus benches, public art, and curb lines. These requirements may be modified at the discretion of the public works director in locations where unusual circumstances exist and where public safety would not be jeopardized.
- (2) *Allowable uses.* An outdoor dining area may incorporate street trees or street furniture, provided that the required pedestrian path is maintained outside of the outdoor dining area.
- (3) *Setbacks from corners, streets and alleys.* When an outdoor dining area is located at a street corner, a ten (10) foot setback from the corner of the building shall be maintained along both frontages. When an outdoor dining area is located adjacent to a driveway or an alley, a five (5) foot setback shall be maintained from the driveway or alley. These requirements may be modified at the discretion of the public works director in locations where unusual circumstances exist and where public safety would not be jeopardized (e.g., the sidewalk adjacent to the proposed outdoor dining area is wider than usual or the perimeter of the building has an unusual configuration).
- (4) *Building access.* No element of the outdoor dining area may interfere with access to any building. This includes all means of ingress/egress. No element of outdoor dining can be placed below a fire escape, stairwell or balcony.
- (5)

Extension to adjacent properties. Subject to approval of the public works director, an outdoor dining area may extend onto the sidewalk in front of an adjacent business with the written consent of both the adjacent business owner and property owner.

(i) *Design standards for sidewalk cafes.*

(1) *Barriers.*

- a. Outdoor dining must be enclosed to separate the right-of-way, both for the privacy of the patron and the unimpeded flow of traffic.
- b. Barriers should compliment the building facade as well as any street furniture and be somewhat transparent (such as wrought iron) and shall be able to withstand inclement weather. Barriers must be seventy (70) percent transparent and shop drawings showing the design must be submitted to the public works department for approval upon request.
- c. Barriers shall conform to the public works department installation standards and be removable. Barriers and furniture shall be removed at the end of each business day unless otherwise approved by the public works department. Barriers shall be designed to be sectional in nature and easily removed by no more than two people. Barriers may be anchored through the use of recessed sleeves and posts, by wheels that can be locked into place, or weighted bases, however, when they are removed, the resulting surface must be flush with the sidewalk.
- d. The height of any barrier shall not exceed three (3) feet six (6) inches.

(2) *Awnings and umbrellas.* The use of awnings over the outdoor dining area and removable table umbrellas may be permitted, provided they do not interfere with street trees. No portion of an awning shall be less than eight (8) feet above the sidewalk and no portion of an umbrella shall be less than seven (7) feet above the sidewalk. Awnings may extend up to five (5) feet from the building front or cover up to fifty (50) percent of the outdoor dining area, whichever is less. Awnings shall have no support posts located within the public right-of-way. A building permit must be obtained prior to installation of an awning. Heaters, electrical lighting, and/or planting shall not be attached to the awning structure.

(3) *Lighting.* Outdoor lighting fixtures should compliment the style of the building. Lighting fixtures shall not be glaring to motorists or pedestrians on the adjacent right-of-way, and shall illuminate only the outdoor dining area. Outdoor lighting may be installed on the facade of the building. Electrical fixtures shall not be permitted in the public right-of-way. Lighting shall be installed by a licensed electrician under an electrical permit from the public works department. Battery operated lamps or candles will be permitted.

(4) *Design.* The design, material, and colors used for chairs, tables, umbrellas, awnings and other fixtures should compliment the architectural style and colors of the building facade and street furniture.

(5) *Signs.* Notwithstanding any other provision in this Code, logos shall be permitted on umbrellas in outdoor dining areas.

(6) *Heaters.* Portable propane heaters shall be allowed within the outdoor dining area.

(7) *Landscaping.*

- a. Any landscaped pots or planters, if desired, shall be placed within the permitted barrier. Such planters shall be portable and not line the barrier in a continuous fashion. The height of planter and plantings shall not exceed forty-two (42) inches. Barriers and awnings may not be

- b. Plants shall be properly maintained and stressed or dying plants shall be promptly replaced. Because plant fertilizers contain materials that can stain the pavement, water drainage from any plants onto the adjacent sidewalk shall not be allowed.

(j) *Inspection; compliance; abatement.*

- (1) *Inspection.* The public works director, or his or her designee, may inspect improvements within the public right-of-way at any time without notice to the permittee.
- (2) *Compliance with terms and conditions.* Restaurant management shall operate the outdoor dining areas in compliance with the terms and conditions of this section and of the encroachment permit.
- (3) *Responsibility for compliance.* The property owner, the permittee and the individuals constituting restaurant management shall all be deemed responsible for the operation of the outdoor dining areas. The foregoing persons shall not delegate or assign the responsibility.
- (4) *Abatement.* In the event that the permittee fails to abide by the terms and conditions of this permit, the public works director may summarily abate any prohibited improvements, without notice to the owner, permittee or restaurant management. The permittee shall pay all costs incurred by the city in such abatement.

(k) *Transfer of permit.* An encroachment permit may be transferred to a subsequent operator of the same establishment subject to approval by the public works director and payment of an encroachment permit transfer fee established by the city council. Prior to approval of the transfer the public works director may modify the terms of the permit as deemed appropriate to protect public health, safety and welfare.

(l) *Term; expiration; revocation.*

- (1) The term of each permit shall be one year, renewable upon expiration in the same manner as application and issuance described herein.
- (2) The public works director may revoke an encroachment permit if it is determined by the director that continued operation of the sidewalk cafe is detrimental to the public interest or the permittee is in violation of any of the restrictions or terms set forth in the City Code or the conditions to the permit.

The public works director shall provide written notice to the permittee. The permittee may request a meeting with either the director or the city manager with regard to the revocation.

- (3) Upon expiration or revocation of the encroachment permit, the permittee shall immediately remove the barriers around the outdoor dining area, return the sidewalk to its original condition, and remove all personal property, furnishings, and equipment from the sidewalk.

(m) *Fees.*

- (1) *Application fee.* An application fee established by resolution of the city council shall be paid at the time an encroachment permit application is submitted to the public works department.
- (2) *Transfer fee.* A transfer fee established by resolution of the city council shall be paid at the time an encroachment permit transfer application is submitted to the public works department.
- (3) *Annual use fee.* An annual use fee established by resolution of the city council shall be paid upon annual renewal of an encroachment permit. No use fee shall be charged during the first year of operation.

(n)

Violation; remedy. In the event that a permittee fails to abide by the provisions of this section, of the City Code or the terms and conditions of an encroachment permit, the public works director may summarily abate any encroachment or improvement that is in violation of this policy. The permittee or property owner shall pay all costs incurred by the city in abating the encroachment or improvement. The permittee or property owner may appeal the decision of the public works director to the city manager. The determination of the city manager with respect to abatement shall be final. In addition, a violation of this section may be punishable as set forth in section 1-15 of this Code.

Further, the city may utilize any legal remedy available to it in order to prevent, cease or abate violations of this section, the City Code or conditions to an encroachment permit.

(Ord. No. 2005-3251, § 1, 9-27-05)

Secs. 40-36—40-45. - Reserved.

ARTICLE IV. - MONUMENTS^[4]

Footnotes:

— (4) —

Cross reference— *Monuments for subdivisions, § 41-26.*

Sec. 40-46. - Permit—Required.

No ornamental monument shall be constructed on any street or right-of-way, without a permit from the council.

(Code 1973, § 10.14(a))

Sec. 40-47. - Same—Application.

The applicant for a permit shall present to the council the following information:

- (1) The name of the applicant, his address, and in what capacity he is acting, i.e. owner, developer, agent for another, etc.; if he represents an improvement association or other association, the full name of the association, and the names of its present officers and their addresses; if he represents a corporation, the name of the corporation, its registered agent and registered address, and in what capacity the corporation is acting, i.e. developer, owner of shopping area, etc.; as well as such other information in writing as the council shall require;
- (2) A drawing of the monument as it will look when completed;
- (3) A detailed set of plans to scale, and specifications for the monument, including information as to height, length, width, materials to be used for construction, lettering to be used and its composition and height, the types of any shrubbery or bushes to be planted in conjunction with the monument;
- (4) A plot plan showing where the monument will be constructed in relation to adjoining or intersecting streets.

(Code 1973, § 10.14(b))

Sec. 40-48. - City plan commission study.

- (a) Upon receipt of application for a permit for construction of a monument the council shall refer the application to the city plan commission. The commission shall make a study of the plan as presented, and make a report to the council within thirty (30) days after date of referral, regarding the effect of such proposed monument on traffic, obstruction of vision of drivers of vehicles and pedestrians, interference with proposed or planned public utilities, interference with proposed or planned widening of streets or intersections, obstruction of the means of ingress or egress, or the view of abutting property owners, and such other matters as may have an effect upon general traffic conditions, public safety and general welfare.
- (b) No action shall be taken upon any application for a proposed monument until the report of the city plan commission has been filed; but if no report is received from the commission within thirty (30) days, the council may proceed with its action upon the application.

(Code 1973, § 10.14(b), (c))

Sec. 40-49. - Repairs and maintenance.

- (a) Although constructed on public property the responsibility for the maintenance and care of a monument shall remain with the permittee.
- (b) The permittee or his successor shall not, at any time after construction, in any way alter the original monument under the guise of repairing same.
- (c) The city may at any time by registered mail, addressed to the last known address of the permittee or his successor, notify him of the need for repair or maintenance. If the person responsible for the repair and maintenance fails to complete the work within forty-five (45) days of the date of the notice the city shall proceed to do the work required, or contract to have the same done, and charge the cost thereof to the person responsible for the repair and maintenance of the monument.

(Code 1973, § 10.14(d))

Sec. 40-50. - Removal.

- (a) If a permit is granted for the construction of a monument and it is erected, it may thereafter be removed at any time upon order of the council for any of the following reasons:
 - (1) The monument has fallen into a state of disrepair and the permittee thereof or his successor fails to make the repairs and to properly maintain such monument;
 - (2) To facilitate the widening of an adjoining or intersecting street;
 - (3) The monument is found to be detrimental to the public safety and welfare.
- (b) If the monument is removed for the reason stated in subsection (a)(1), the cost of removal and the replacement of the site in the same condition as surrounding areas shall be charged to the person or persons responsible for repair and maintenance.
- (c) If the monument is removed for the reasons stated in subsection (a)(2) or (a)(3) the monument shall be removed at the expense of the city.

(Code 1973, § 10.14(e))

Secs. 40-51—40-59. - Reserved.

ARTICLE V. - COMMUNITY GARDENS

Sec. 40-60. - Purpose.

Community gardens may be established to allow residents and their neighbors to cultivate fruits, vegetables, plants, flowers, or herbs for their consumption and enjoyment and for the consumption and enjoyment by friends and relatives without creating adverse environmental impact or land use incompatibilities.

(Ord. No. 2009-3413, § 1, 10-13-09)

Sec. 40-61. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Community garden shall mean one (1) or more lots or parcels of land, less than one (1) acre in size, used to produce vegetables, fruits, flowers, or other plant material for multiple users.

Community garden structure shall mean a detached structure, the use of which is customary to community gardens.

Director of planning shall mean the director of planning or his/her authorized representative.

Director of public works shall mean the director of public works or his/her authorized representative.

Garden coordinator shall mean the person having a legal or equitable interest in a proposed project subject to the provisions of this article. The coordinator performs the role of management of the community gardens with coordination with the city.

Structure shall mean that which is built or constructed.

Vacant public land shall mean any land owned by a public agency that is not in use for an essential public purpose and is currently void of any structure.

(Ord. No. 2009-3413, § 1, 10-13-09)

Sec. 40-62. - Standards and requirements.

- (a) *Permit required.* No person shall establish or maintain a community garden without first obtaining an appropriate permit from the city. No permit shall be issued unless the community garden complies with the guidelines, standards and requirements set forth in this article or other applicable provision of the Municipal Code.
- (b) *Establishment and maintenance.*
 - (1) *Process.* The process for establishing a community garden is as follows:
 - a. *Plan.* Gardens must have a realistic and long term plan that positively impacts the neighborhood and shows a means of long term success. Local and regional resources should be identified.
 - b. *Volunteers.* Gardens must have at least four (4) volunteers identified for the application, as the support of the surrounding community is necessary for the garden's continued maintenance
 - c. *Site.* Sites should be investigated and proposed that are best suited for community gardens based on size, surrounding usage, and long-term vision. Sites should be coordinated and approved by the director of planning.

- d. *Approval.* Sites must be approved by the city to be operated as a community garden. Garden coordinators shall submit an application to the director of planning for a site to be certified as a community garden along with a fifty dollar (\$50.00) deposit. The city shall give certification to the garden coordinator for the site to be used as a community garden if all the standards and requirements outlined in this article are met. Once approved, the fifty dollar (\$50.00) deposit will be returned.
- (2) *Maintaining.* Community gardens will need to go through an annual evaluation by the city that ensures it is being operated by the provisions of this article. Per the enforcement procedures of this article, the garden coordinator and/or the community garden can lose its certification.
- (c) *Minimum standards.* Community gardens shall consist of land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by multiple users. The land shall be served by a sufficient water supply to support the cultivation practices used on the site and which does not cause any adverse impacts to the public health, safety and welfare. Such land may include available public land. Community gardens are subject to the following regulations:
 - (1) *Site regulations.*
 - a. The site shall be designed and maintained to minimize water, any chemical pesticide, fertilizer or other garden waste from draining on to adjacent properties.
 - b. Operating hours for community garden activities (non motorized equipment) shall be restricted to between dawn to dusk daily.
 - c. Mechanical equipment, other than the type customarily identified as lawn and garden equipment, shall be prohibited unless during city-permitted work action. Within a residentially zoned district, the use of motorized equipment shall be restricted to hours beginning at 9:00 a.m. and ending at 8:00 p.m.
 - d. Cultivated areas shall not encroach onto adjacent properties.
 - e. For gardens on city-owned property, signage shall be posted waiving the city of any liability.
 - f. The property shall be maintained free of high grass, weeds or other debris. Dead garden plants shall be regularly removed.
 - g. There shall be no retail sales on site, except for produce grown on the site.
 - h. Any use condition for a community garden may be modified by special exception; authorized by the director of planning.
 - (2) *Community garden users/garden coordinator.*
 - a. The owner of any lot used for a community garden shall give each abutting property owner or occupant written notice of the owner's or the owner's agent's name, address, and telephone number and the use conditions provided in this Code for community gardens, no less than thirty (30) days prior to the start of any community garden use.
 - b. Only individuals, or organizations authorized by the property owner shall participate in the community garden. When the garden is established on a non-city-owned property, it is required that leasing agreements be established between the garden coordinator and the property owner. These agreements should be kept on file with public works. The agreements shall establish procedures for liability concerns.
 - c. Site users must provide lab certified soil sample results that include lead (Pb) levels and appropriate remediation procedures must be undertaken to ensure that soil is suitable for gardening. These results should be kept on file with public works.

- d. Site users must have an established set of operating rules addressing the governance structure of the garden, hours of operation, maintenance and security requirements and responsibilities; waiving of liability forms for registered gardeners of plots, a garden coordinator to perform the coordinating role for the management of the community gardens; and must assign garden plots according to the operating rules established for that garden. The name and telephone number of the garden coordinator and a copy of the operating rules shall be kept on file with public works. For gardens on city-owned property, liability waiver forms for registered gardeners of plots shall be kept on file with public works.
- e. The garden coordinator shall prepare plans and details of the garden layout and any community garden structures for review and approval by the director of public works. Some of these reviews will require permits although permitting fees will be waived for city-owned properties.

(3) *Community garden structures.* Storage sheds, compost or waste bins, greenhouses that consist of buildings made of glass, plastic, or fiberglass in which plants are cultivated, raised/accessible planting beds over four (4) feet in height, fences, and water collection systems shall be permitted permanent community garden structures. Benches, bike racks, picnic tables, seasonal farm stands, fences, garden art, and rain barrel systems shall be permitted temporary community garden structures. The combined area of all buildings or permanent community garden structures shall not exceed nine hundred (900) square feet footprint or fifteen (15) percent of the garden site lot areas, whichever is less. Community garden structures are subject to the following requirements:

- a. *Storage sheds.* Details showing overall dimensions, materials, location on site, and the anchoring device shall be submitted for approval by the director of public works.
 - 1. A maximum of one (1) shed is allowed per residential lot.
 - 2. A permit is required before installation.
 - 3. One hundred twenty (120) square foot maximum size (footprint) and ten (10) feet maximum height.
 - 4. A five-foot setback to property lines must be maintained (to the wall).
 - 5. A six-foot separation is required to other buildings or permanent community garden structure (wall to wall).
 - 6. Sheds are allowed only in side and rear yard areas.
 - 7. Corrugated metal is not allowed.
 - 8. Footings/foundations are encouraged, however, it is required that sheds be anchored to avoid tipping over in winds.
- b. *Compost bins.* Compost bins shall comply with section 37-6. Details showing overall dimensions, materials, and location on site shall be submitted for approval by the director of public works.
- c. *Garden art.* Details showing proposed garden art including rendering, overall dimensions, materials, and location on site shall be submitted for approval by the director of public works.
- d. *Other.* Any other community gardens structure, garden aspect that requires some sort of concrete embedment, or major garden entity depicted by the director of public works as initially discussed in the planning of the community garden should be detailed and submitted

for review and approval.

- (4) *Compost piles.* Compost piles shall comply with section 37-6.
- (5) *Signage.* Proposed signage shall be depicted in the detail drawings and shall comply with applicable city ordinances (chapter 36) although the director of public works shall be able to grant variances for the unique nature of community gardens. These variances include but are not limited to the following:
 - a. Gross area of signage.
 - b. Number of signs to depict community garden name, rules and sponsors.
 - c. Sign height if applicant wishes to create some sort of vegetation barrier below signage.
- (6) *Fences and gates.* The planned layout and depth of embedment for fences and gates shall comply with applicable city ordinances. Due to unique nature of gardens, with the need to keep certain animals from disturbing the gardens, the type of material and proposed height shall be submitted for approval by director of public works. In no case, shall fences or gates along frontage roads be chain link, wire or mesh. No fence shall be installed without review and permit by the director of public works.
- (7) *Driving path.* Location and proposed material needs to be submitted for approval by director of public works.
- (8) *Other regulations.*
 - a. Connections to electricity or sewers are prohibited without a permit or other permission from the city and other regulatory commission.
 - b. Exceptions to existing setbacks and easements shall be noted on the plans for approval by the director of public works.

(Ord. No. 2009-3413, § 1, 10-13-09)

Sec. 40-63. - Enforcement.

- (a) General. It shall be the duty of the director of public works to enforce the provisions of this article. The code official is authorized and directed to make inspections only to determine whether premises or community garden structures located within this city conform to the requirements of this chapter. For the purpose of making such inspections, the director of public works or his agent is authorized to enter upon the premises to examine ground conditions and any community garden structures. Inspections of property under this article shall be made after the effective date of this article under the following conditions:
 - (1) On a biannual basis.
 - (2) Where there is deterioration or neglect of the premises or community garden structure.
- (b) Notice of violation. Whenever the director of public works determines that there are reasonable grounds to believe that there has been a violation of any provisions of this chapter, the director will give notice of such violation to the garden coordinator on file therefore which shall:
 - (1) Be in writing;
 - (2) Contain a statement of the reason why it is being issued;
 - (3) Contain an outline of remedial action which, if taken will effect compliance with the provisions of this article;
 - (4) Allow a reasonable time for the performance of any act it requires.

(c)

Upon a determination by the director of public works that the violations of this article have been corrected, he shall issue a letter of compliance to the person or persons who had previously been issued the violation notice that said violations have been corrected.

If no compliance within allocated time, city shall remedy the violation resulting in the following:

- (1) For city-owned property, the garden coordinator will not be allowed to continue in this role during next the renewal, if city has had to step in to remedy violations twice before.
- (2) For privately-owned property, the city will abate the violations and place a lien on the property in accordance with the city's nuisance abatement procedures.

(Ord. No. 2009-3413, § 1, 10-13-09)

Chapter 41 - SUBDIVISION REGULATIONS^[1]

Footnotes:

--- (1) ---

Cross reference— *Subdivision regulations, § 2-405; buildings and building regulations, Ch. 7; flood plain management, Ch. 18; standards for flood hazard reduction in subdivision proposals, § 18-76; mobile homes and trailers, Ch. 27; redevelopment procedures, Ch. 34; signs and advertising, Ch. 36; streets, sidewalks and other public places, Ch. 40; zoning, Ch. 49.*

State Law reference— *Regulations governing the subdivision of land, RSMo 89.410 et seq.*

ARTICLE I. - IN GENERAL

Sec. 41-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building setback shall mean the distance that a building must be set back from the lot line or boundary.

City plan shall mean a plan or plans adopted by the city plan commission and council and deposited with the city clerk, showing the plan of development of major streets, schools, parks, open spaces, public grounds and similar facilities within the city limits.

Collector street shall mean a street which carries or is proposed to carry traffic from minor streets to major streets, including the principal entrance street of a subdivision, streets serving seven hundred fifty (750) or more dwelling units, or streets designed and located to collect traffic from four (4) or more minor streets.

Lot shall mean a portion of a subdivision intended for transfer of ownership or for building development for a single building and its accessory buildings.

Major street shall mean a street designated as a major street in the major street plan for the city.

Minor street shall mean a street not designated as a major street in the major street plan for the city.

Street shall mean all property dedicated or intended for public or private street, highway, freeway, or roadway purposes.

Subdivision shall mean the division of land into two (2) or more tracts, sites, or parcels and/or the dedication or establishment of a public or private street, road, or highway and shall be recorded by plat in conformance with the requirements of this section. The following divisions of land are exempted from the requirement of recording by plat, but shall require, prior to the sale or transfer of property, certification granted by the city plan commission, which certification shall be set out in the minutes of the city plan commission and the reason for its approval:

- (1) The sale or transfer of land of two (2) acres or more not involving any new street or easement of access. This shall not be construed to allow the creation of any such lot having a least dimension of less than three hundred (300) feet. Such least dimension shall be measured perpendicular to the longest side of the tract.
- (2) The sale or transfer of small parcels of land having less area or frontage than required for lots in the zoning district wherein such parcels are located to or between adjoining property owners, where such sale or transfer does not create additional lots nor where the lots involved are in no way reduced to less than the area and size required by any zoning regulations affecting the property.

Plat shall mean a map, chart, or drawing, to scale, of a tract or parcel of land to be subdivided showing the information as required elsewhere in this chapter and shall include the terms "plan," "plot," "replat," or "replot."

(Code 1973, § 22.01)

State Law reference— Streets, subdivision defined, RSMo 89.300(2), (3).

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 41-2. - Compliance with chapter.

Any owner or proprietor of any tract of land who subdivides that tract of land and who violates any of the provisions of this chapter shall be guilty of an offense.

(Code 1973, § 22.02)

Secs. 41-3—41-15. - Reserved.

ARTICLE II. - DESIGN STANDARDS^[2]

Footnotes:

--- (2) ---

Cross reference— Streets, sidewalks and other public places, Ch. 40.

State Law reference— Municipal authority to regulate size, location and use of buildings, etc., to promote health, safety, morals or general welfare of community, RSMo 89.020.

Sec. 41-16. - Applicability.

The requirements and standards of design set out in this article shall apply to the subdivision of land.

(Code 1973, § 22.19)

Sec. 41-17. - Relation to existing streets.

The arrangement of highways and streets in new subdivisions shall make provisions for the continuation of existing highways and streets, or their proper projection where adjoining property is not subdivided, insofar as they may be deemed necessary by the city plan commission for public requirements.

(Code 1973, § 22.19)

Sec. 41-18. - Width of streets and alleys.

The widths and locations of major streets shall conform to the widths and locations designated on the major street plan for the city. The minimum width of a collector street shall be sixty (60) feet. The minimum width of a minor street shall be fifty (50) feet. Dead-end streets or cul-de-sac streets may have a right-of-way width of forty (40) feet. Alleys shall not be less than twenty (20) feet in width. When streets adjoin unsubdivided property, a half street, not less, however, than thirty (30) feet in width, may be dedicated, and whenever the subdivided property adjoins a half street the remainder of the street shall be dedicated.

(Code 1973, § 22.19)

Sec. 41-19. - Width of pavement.

The width of pavement on a minor street shall be thirty-two (32) feet and on a collector street forty-four (44) feet.

(Code 1973, § 22.19)

Sec. 41-20. - Grades of streets.

On streets that are required to have a right-of-way width of more than fifty (50) feet, grades shall not exceed six (6) percent. On streets permitted to have a right-of-way width of fifty (50) feet or less, grades shall not exceed twelve (12) percent.

(Code 1973, § 22.19)

Sec. 41-21. - Curvature of streets.

Where a deflection angle or more than ten (10) degrees in the alignment of a street occurs, a curve of reasonably long radius shall be introduced. On streets more than fifty (50) feet in width the centerline radius of curvature shall not be less than three hundred (300) feet on other streets the centerline radius of curvature shall be not less than one hundred (100) feet.

(Code 1973, § 22.19)

Sec. 41-22. - Angles of streets at intersections.

Intersections of streets shall be at an angle as close to ninety (90) degrees as possible and shall not be less than sixty (60) degrees.

(Code 1973, § 22.19)

Sec. 41-23. - Naming streets.

(a) *Street names.*

(1)

From and after the effective date of this ordinance [October 28,1997], no new public street or public way ("street") shall be named, nor any existing street be renamed, nor shall any new public street within a resubdivision be named, except as provided by this section.

- (2) In order to name a street or rename an existing street, a petition must be filed in the office of the director of public works on such forms and in such manner as the department of public works may prescribe. Such petition must be signed by the owners of at least fifty-one (51) percent or more of the recorded parcels of land fronting on any such street and the council persons within whose ward any such street is situated, or, if such street is within more than one ward, by the council persons of each such wards. Each petition shall include, but not be limited to:
 - a. The proposed name of the street;
 - b. A general location map of the street;
 - c. A statement documenting the proposed name's significance; and
 - d. If the petition seeks to rename an existing street, a statement documenting the existing street name's significance.

Proposed streets that are in alignment with existing streets already named shall bear the same names. No new street shall duplicate the name of an existing street.

- (3) Within five (5) days after a petition for naming or renaming a street has been filed as provided above, the director of public works shall transmit to the traffic commission, the city clerk, the postmaster for the City of St. Louis, and manager or coordinator of the City of Ferguson 911 Emergency Response System, copies of the petition together with all exhibits and documents appurtenant thereto.
- (4) Within forty-five (45) days after such transmittal, the traffic commission shall review the petition and shall transmit to the city council such advice and recommendations as they may deem appropriate.
- (5) The traffic commission shall, prior to making its determination with respect to the petition, permit any interested party an opportunity to appear before the commission and be heard. At least ten (10) days prior to the traffic commission meeting to discuss the proposal, notice shall be sent by regular mail to the owners of the recorded parcels of land fronting on such street to provide them an opportunity to comment on the proposed name change. The same notice shall be sent to the postmaster for the City of St. Louis and the manager or coordinator of the City of Ferguson 911 Emergency Response System.
- (6) After consideration of the petition, the traffic commission shall:
 - a. Recommend approval of the petition as submitted; or
 - b. Recommend approval of the petition with such modifications or conditions as the commission shall deem appropriate; or
 - c. Recommend disapproval of the petition.

Such determination shall be in writing and shall be made within ninety (90) days after filing the petition, provided that the traffic commission may vote to extend such time period to permit studies or reports to be completed, or other good cause.

- (7) In the event of a recommendation of disapproval of the petition, the traffic commission shall state the reasons therefor and possible alternatives thereto, and shall forward a copy thereof to the petitioner, the city clerk, the postmaster of the City of St. Louis, and the manager or

coordinator of the City of Ferguson 911 Emergency Response System. The traffic commission shall also forward a copy of its recommendation of disapproval to the council for final action.

- (8) In the event of a recommendation of approval of the petition, the traffic commission shall cause to be prepared by the city clerk, a bill for consideration by the city council and shall forward same to the city council, to the postmaster for the City of St. Louis, and the manager or coordinator of the City of Ferguson 911 Emergency Response System.
 - (9) After such bill, as provided for in subsection (8), is introduced in the city council, said bill shall not be voted on by the council until a public hearing is held by the city council. At least fifteen (15) days prior to the public hearing, the city council shall require the city clerk to cause a notice of the pendency of the bill to be published in one (1) daily newspaper of general circulation in the city. The notice shall contain a clear description of the location of the street, the proposed name, and the date, time, and place of the hearing at which property owners affected thereby, or others interested therein, may appear before the city council to be heard. Provided, however, that before any action shall be taken as provided in this section, the petitioner proposing such street name shall deposit with the city clerk an amount at least equal to the publication costs of said notice. Should said deposit be found to be insufficient to cover the actual cost of the newspaper publication herein provided, then the petitioner, upon notice from the city clerk, shall immediately and prior to the insertion of any such publication, supply such additional sum of money so found to be required for this purpose. Provided further, however, that under no conditions shall money expended by the city be refunded whether or not the bill is enacted into law. Any part of the money so deposited which is not expended by the city clerk shall be refunded to the petitioner. In addition, at least ten (10) days prior to the public hearing, the city clerk shall cause a placard containing the words "Proposed Street Name or Street Name Change in this Block" to be printed in large type and erected at each end of every block fronting such street. Such placards shall also have prominently displayed and firmly attached thereto a copy of the notice which appears in the daily newspaper.
 - (10) Whenever a hearing is held pursuant to subsection (9), the hearing body shall receive evidence for and against the proposed action and hear and rule upon all protests which determination shall be final; and may continue the hearing from time to time. If fifty-one (51) percent of the property owners fronting any such street to be named or renamed by the bill, shall, in writing, request that said proposal be withdrawn, that request shall be forwarded to the council and the council shall make a determination on the withdrawal of said petition.
- (b) *Procedure for naming a new street within a resubdivision.*
- (1) In order to name a new street within a resubdivision, a petition shall be filed in the office of the director of public works on such forms and in such manner as the department may prescribe. Such petition must be signed by the developer's agent and the city council members within whose ward any such street is situated, or, if such street is within more than one ward, by the council members of each such ward. Each petition shall include, but not be limited to:
 - a. The proposed street name;
 - b. The general location map of the street;
 - c. A statement documenting the proposed name's significance.
 - (2) Within five (5) days after a petition for naming a street has been filed as provided above, the director of public works shall transmit to the city clerk, the traffic commission, the postmaster of the City of St. Louis and the manager or coordinator of the City of Ferguson 911 Emergency

Response System copies of the petition together with all exhibits and documents appurtenant thereto.

- (3) Within forty-five (45) days after such transmittal, the traffic commission shall review the petition and shall transmit to the city council such advice and recommendations as they may deem appropriate.
- (4) The traffic commission shall, prior to making its determination with respect to the petition, permit any interested party an opportunity to appear before the commission and be heard. At least ten (10) days prior to the traffic commission meeting to discuss the proposal, notice shall be sent by regular mail to the owners of the recorded parcels of land fronting on such street to provide them an opportunity to comment on the proposed name change.
- (5) After consideration of the petition, the traffic commission shall:
 - a. Recommend approval of the petition as submitted; or
 - b. Recommend approval of the petition with such modifications or conditions as the commission shall deem appropriate; or
 - c. Recommend disapproval of the petition.

Such determination shall be in writing and shall be made within ninety (90) days after filing of the petition, provided that the traffic commission may vote to extend such time period to permit additional studies or reports to be completed, or for other good cause.

- (6) In the event of a recommendation of disapproval of the petition, the traffic commission shall state the reasons therefor and possible alternatives thereto, and shall forward a copy thereof to the petitioner, the city clerk, the postmaster of the City of St. Louis, and the manager or coordinator of the City of Ferguson 911 Emergency Response System. The traffic commission shall also forward a copy of its recommendation of disapproval to the council for final action.
- (7) In the event of a recommendation of approval of the petition, the traffic commission shall cause to be prepared by the city clerk, a bill for consideration by the city council and shall forward same to the city council, to the postmaster for the City of St. Louis, and the manager or coordinator of the City of Ferguson 911 Emergency Response System.
- (8) After such bill, as provided for in subsection (7), is introduced in the city council, said bill shall not be voted on by the council until a public hearing is held by the city council. At least fifteen (15) days prior to the public hearing, the city council shall require the city clerk to cause a notice of the pendency of the bill to be published in one (1) daily newspaper of general circulation in the city. The notice shall contain a clear description of the location of the street, the proposed name, and the date, time, and place of the hearing at which property owners affected thereby, or others interested therein, may appear before the city council to be heard. Provided, however, that before any action shall be taken as provided in this section, the petitioner proposing such street name shall deposit with the city clerk an amount at least equal to the publication costs of said notice. Should said deposit be found to be insufficient to cover the actual cost of the newspaper publication herein provided, then the petitioner, upon notice from the city clerk, shall immediately and prior to the insertion of any such publication, supply such additional sum of money so found to be required for this purpose. Provided further, however, that under no conditions shall money expended by the city be refundable whether or not the bill is enacted into law. Any part of the money so deposited which is not expended by the city clerk shall be refunded to the petitioner. In addition, at least ten (10) days prior to the public hearing, the city clerk shall

Block" to be printed in large type and erected at each end of every block fronting such street. Such placards shall also have prominently displayed and firmly attached thereto a copy of the notice which appears in the daily newspaper.

- (9) Whenever a hearing is held pursuant to subsection (9), the hearing body shall receive evidence for and against the proposed action and hear and rule upon all protests which determination shall be final; and may continue the hearing from time to time. If fifty-one (51) percent of the property owners fronting any such street to be named or renamed by the bill, shall, in writing, request that said proposal be withdrawn, that request shall be forwarded to the council and the council shall make a determination on the withdrawal of said petition.
- (c) *Criteria for street names.* A street may be named or renamed for any person, place, creation, or number provided that:
 - (1) It is conducive to good city planning, contributes to the conservation for property values and to the protection of the equity invested by residents and owners of properties fronting on said street, as well as the general interests of the other citizens of the city; and
 - (2) It has significance or value as part of the development, heritage, or cultural characteristics of the city, state, or nation, or contributes to civic pride in wider public knowledge and appreciation of the heritage and history of Ferguson; and
 - (3) It does not detract from our historical heritage by renaming a street with a name that has less significance than the street's current name; and
 - (4) It names or renames all segments of the same street within the boundaries of the City of Ferguson provided, however, that a "street," "avenue," "boulevard" designation may be changed to "place," "terrace," or other suitable designation if a segment of such street has been permanently closed by ordinance; and
 - (5) When a street is to be named or renamed for a person:
 - a. The petition shall not be filed until after the first anniversary of such person's death; and
 - b. Only such person's last name shall be used as a street name unless additional identification is necessary to prevent a duplication of street names in the metropolitan area.

(Code 1973, § 22.19; Ord. No. 97-2945, § 1, 10-28-97)

Sec. 41-24. - Alleys for business purposes and in residential lots.

Alleys shall be provided in the rear of lots to be used for business purposes, and in residential lots where the subdivider shows evidence to the city plan commission of the need for alleys.

(Code 1973, § 22.19)

Sec. 41-25. - Dead-end streets.

Dead-end streets (cul-de-sacs) shall be designed so that turnarounds at the closed ends shall have a minimum radius for the outside curb of at least forty (40) feet. Dead-end streets shall not be over four hundred (400) feet in length.

(Code 1973, § 22.19)

Sec. 41-26. - Monuments.

Monuments of a type approved by the city plan commission shall be set at all corners and angle points of the boundaries of the original tract to be subdivided and at all street intersections.

(Code 1973, § 22.19)

Cross reference— Monuments generally, § 40-46 et seq.

Sec. 41-27. - Maximum length of blocks; crosswalks in center of blocks.

Blocks shall not exceed one thousand five hundred (1,500) feet in length. Blocks one thousand (1,000) feet in length or longer shall have a crosswalk near the center of the block. The right-of-way for such crosswalk shall not be less than ten (10) feet in width.

(Code 1973, § 22.19)

Sec. 41-28. - Width of blocks.

Blocks shall be wide enough to allow for two (2) tiers of lots of minimum depth except where prevented by topographical conditions, location, or size of property, in which case the city plan commission may alter the size.

(Code 1973, § 22.19)

Sec. 41-29. - Arrangement of lots as to street lines.

Arrangements of lots shall be at right angles to street lines if possible, or radial to curved street lines.

(Code 1973, § 22.19)

Sec. 41-30. - Lots to front on a public street.

Each lot shall front on a public street.

(Code 1973, § 22.19)

Sec. 41-31. - Size, width and area of lots.

The size and shape of residential lots shall be as the city plan commission deems appropriate for the type of building development contemplated; provided, however, that lots for residential purposes wherein both sewer and water connections are provided, shall be a minimum of sixty (60) feet average width and one hundred (100) feet average depth, and they shall contain a minimum of seven thousand five hundred (7,500) square feet. Size, width and area shall in no case be less than that specified for the location in any zoning regulations.

(Code 1973, § 22.19)

Sec. 41-32. - Size of lot where sewer or water connection not provided; approval of water system and sewage disposal method.

If a sewer or water connection is not provided, the lot shall contain at least twenty thousand (20,000) square feet and the installation of a water system and a sewage disposal method shall be approved by the county commissioner of health.

(Code 1973, § 22.19)

Sec. 41-33. - Increasing size of corner lots.

Corner lots shall be increased in size, whenever necessary, so as to permit the establishment of front building lines on both streets.

(Code 1973, § 22.19)

Sec. 41-33.1. - Lot corner markers.

All lot corner markers shall be permanently located, three-fourths of an inch (if metal) in diameter and at least twenty-four (24) inches in length, and located in the ground to existing grade.

(Code 1973, § 22.19)

Sec. 41-34. - Arrangement of parcels where tract is subdivided into larger parcels than ordinary building lots.

In case a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be so arranged as to allow the opening of future streets and logical further subdivision.

(Code 1973, § 22.19)

Sec. 41-35. - Width of easements where alleys permitted for poles, wires, conduits, etc.

Except where alleys are permitted, the city plan commission may require easements up to ten (10) feet in width for poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains and other public utilities along all rear lot lines and side lot lines. Easements may be a greater width for the extension of existing or planned utilities.

(Code 1973, § 22.19)

Sec. 41-36. - Accuracy of surveyed dimensions shown on plat.

A boundary traverse shall be run and all other surveyed dimensions shown on the plat shall be to an accuracy of one (1) part to five thousand (5,000).

(Code 1973, § 22.19)

Sec. 41-37. - Building setbacks to conform to zoning regulations.

Building setbacks shall in all cases conform to those setbacks established in the city's zoning regulations.

(Code 1973, § 22.19)

Sec. 41-38. - Consideration to be given to sites for schools, parks and other public uses.

Due consideration shall be given by all subdividers and by the city plan commission to sites for schools, parks and other public uses, as shown on the city plan.

(Code 1973, § 22.19)

Sec. 41-39. - Maintenance of common facilities.

Where the subdivision contains paving, sewers, sewage treatment plants, water supply systems, park areas, street trees or other physical facilities necessary or desirable for the welfare of the area or that are for common use or benefit which are not or cannot be satisfactorily maintained by any existing public agency, provision shall be made by trust agreement made a part of the deed restrictions or protective covenants acceptable to any agency having jurisdiction over the location and improvement of such facilities for the proper and continuous maintenance and supervision of such facilities.

(Code 1973, § 22.19)

Sec. 41-40. - Exceptions in community unit developments.

Whenever a subdivision is developed under a community unit plan wherein adequate park area is provided and through traffic is adequately cared for and the majority of the minor streets are of the cul-de-sac type, the city plan commission may vary the requirements of this article in order to allow the subdivider more freedom in the arrangement of the streets and lots, but at the same time protect the convenience, health and safety of the future residents of the subdivision, as well as the general welfare of the entire community. In no case, however, shall the lot area per family requirement be less than is required in any applicable zoning ordinance.

(Code 1973, § 22.19)

Secs. 41-41—41-50. - Reserved.

ARTICLE III. - PLAT PREPARATION AND APPROVAL PROCEDURES^[3]

Footnotes:

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State Law reference— *Plats, RSMo Ch. 445.*

DIVISION 1. - GENERALLY

Sec. 41-51. - Required.

Any owner or any proprietor of any tract of land situated within the corporate limits of the city who subdivides the same shall cause a plat of such subdivision, with reference to known or permanent monuments, to be made and recorded in the office of the record of deeds of the county.

(Code 1973, § 22.03)

Sec. 41-52. - Application for approval of subdivision plat.

Whenever any subdivision of land is proposed, and before any permit for the erection of a structure shall be granted, the subdivider or his agent shall apply in writing to the city plan commission for approval of his subdivision plat. All plats, plans and other material submitted by the subdivider shall be filed at least ten (10) days prior to the regular meeting date of the city plan commission with the city engineer, who shall present them to the city plan commission and the council for their consideration and action as required by this chapter.

(Code 1973, § 22.08)

Sec. 41-53. - Preparation by registered professional engineer; certificate and seal.

Every plat shall be prepared by a registered professional engineer duly licensed by the state, who shall endorse upon each such plat a certificate signed by him setting forth the source of the title of the owner of the land subdivided, and the place of record of the last instrument in the chain of the title, and shall cause his seal to be affixed on the face of the plat.

(Code 1973, § 22.05)

Sec. 41-54. - Outlines of tracts of land where land is acquired from more than one source.

When the plat is of land acquired from more than one (1) source of title, the outlines of the several tracts shall be indicated upon such plat.

(Code 1973, § 22.06)

Sec. 41-55. - Statement to accompany plat or deed of dedication.

Every plat or the deed of dedication to which such plat is attached shall contain, in addition to the registered professional engineer's certificate, a statement to the effect that the above and foregoing subdivision of (here insert correct description of the land subdivided) as appears in the plat in question is with the free consent and in accordance with the desire of the undersigned owners, proprietors and trustees, if any, which shall be signed by the owners, proprietors and trustees, if any, and shall be acknowledgements of deeds, and when thus executed and acknowledged, shall be filed and recorded in the office of the recorder of deeds of the county and indexed under the names of the owners of the lands signing such statement and under the names of the subdivision.

(Code 1973, § 22.07)

Secs. 41-56—41-65. - Reserved.

DIVISION 2. - PRELIMINARY LAYOUT

Sec. 41-66. - Conference with city engineer.

Each subdivider of land should confer with the city engineer before preparing a preliminary layout in order to become thoroughly familiar with any ordinances and the city plan proposals affecting the area in which the proposed subdivision lies.

(Code 1973, § 22.08.5)

Sec. 41-67. - Discussion by city plan commission with subdivider.

After reaching a tentative conclusion, the city plan commission may discuss the preliminary layout with the subdivider at a meeting of the city plan commission. After such discussion, the city plan commission shall communicate, within thirty (30) days, in writing to the developer:

- (1) Specific changes that are required in the preliminary layout;
- (2) The character and extent of public improvements that will have to be made in keeping with the public health, safety, morals and general welfare; and
- (3) The amount of construction or improvement or the amount of performance bond which it will require as a prerequisite to approval of the final subdivision plat.

(Code 1973, § 22.10)

Sec. 41-68. - Submission to council.

- (a) *Number of copies; scale.* The subdivider shall present to the council three (3) copies of a preliminary layout at a scale of not more than one hundred (100) feet to the inch.
- (b) *Information to be shown.* The preliminary layout shall include the following:
 - (1) Proposed subdivision name or identifying title and a description of its location;
 - (2) Name and address of record owner, subdivider and designer of preliminary layout;
 - (3) Location of property lines, existing easements, buildings, watercourses, existing sewers and water mains, culverts, drains and other essential features;
 - (4) The names of all subdivisions immediately adjacent and the names of owners of record of adjacent property;

- (5) Location, names and present widths of existing and proposed streets, highways, easements, building lines, alleys, parks and other public open spaces and tentative approval of storm and sanitary sewer easements from Metropolitan St. Louis Sewer Districts;
- (6) All parcels of land proposed to be dedicated for public use and the conditions of such dedication;
- (7) Any proposed changes in the use, height, area or density districts under any zoning regulations applicable to the area;
- (8) Date, true north point and scale;
- (9) Deed description and map or survey of the tract boundary made and certified by a registered professional engineer;
- (10) Connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply;
- (11) Provisions for collecting and discharging surface drainage and preliminary designs for any bridges or culverts which may be required, and the width and type of the pavement;
- (12) The proposed lot lines with dimensions and suggested location of buildings;
- (13) The location of sidewalks, sanitary sewers, storm drains, water mains, curbs and gutters and the sizes and types thereof, and the location of manholes and basins and underground conduits;
- (14) Contours at vertical intervals of not more than five (5) feet when required by the city plan commission.

(Code 1973, §§ 22.15, 22.16)

State Law reference— Plats, how drawn, shall show what, RSMo 445.020.

Sec. 41-69. - Fees, costs and expenses.

- (a) The city council shall establish a schedule of fees, costs, and expenses for all matters pertaining to zoning, land use, land development and land subdivision and consolidation. The schedule of fees, costs, and expenses may be amended from time to time by the city council and shall not require a recommendation from the planning and zoning commission.
- (b) No final action shall be taken with regard to any plat until all fees pertaining to such plat have been paid in full.
- (c) The fee for an application for plat approval shall be paid upon submission of the preliminary plat.
- (d) The applicant, property owner or developer shall be responsible for all costs and expenses relating to the publication and mailing of notices of any required public hearing. If the application is tabled by either the planning and zoning commission or city council at the request of the applicant or for failure of the applicant and/or the applicant's authorized representative to attend the meeting, the applicant shall be responsible for the cost of re-advertising the notice of public hearing and the re-notification of the adjacent property owners. The applicant will subsequently be billed, by the city, for the cost of the publication and the mailing of the legal notices.
- (e) If, in the opinion of the city's staff or council, plat review is necessary by an independent engineer retained by the city for this purpose, the applicant, property owner and developer shall be responsible for all fees, costs and expenses relating to the plat review by such engineer. The applicant will subsequently be billed, by the city, for the fees, costs and expenses of the plat review.
- (f) If, in the opinion of the city's staff or council, independent studies, such as traffic studies, are necessary to assist the city in making determinations with regard to the plat, the city manager may retain professional firms in order to complete such studies. The choice of professional firms to

conduct such studies shall be in the sole discretion of the city. The applicant, property owner and developer shall be responsible for all fees, costs and expenses relating to such studies. The applicant will subsequently be billed, by the city for the fees, costs and expenses of the studies.

(Ord. No. 2008-3351, § 1, 4-15-08)

Secs. 41-70—41-75. - Reserved.

DIVISION 3. - FINAL PLATS

Sec. 41-76. - Submission to city plan commission and council.

- (a) *Time limit; number of copies.* The subdivider shall, within six (6) months, after official notification by the city plan commission in respect to the preliminary layout, file with the city plan commission and the council the final subdivision plat in accordance with subsections (b) and (c). There shall be three (3) copies on a scale of not more than one hundred (100) feet to the inch in addition to the original.
- (b) *Materials; scale.* The final subdivision plat submitted for approval and subsequent recordings shall be clearly and legibly drawn in ink upon tracing cloth or mylar at a scale of not more than one hundred (100) feet to the inch.
- (c) *Information to be shown.* The final subdivision plat shall show the following:
 - (1) Proposed subdivision name or identifying title, location address of record owner and subdivider, name of the registered professional engineer and certification that the plan represents a survey made by him and that all the necessary monuments are correctly shown;
 - (2) Street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use;
 - (3) Sufficient data acceptable to the city plan commission to determine readily the location, bearing, and length of every street line, lot line, boundary line and to reproduce them on the ground. Reference should be made to known or permanent monuments and the description of land subdivided;
 - (4) The boundaries of the property, location, graphic scale and true north point;
 - (5) Every such plat shall show all lands which the owner proposes to dedicate for public use together with the covenants, if any, as to the use thereof;
 - (6) All permanent reference monuments shown by an "X" on the plat.

(Code 1973, §§ 22.11, 22.17, 22.18)

State Law reference— Commission to approve plats, RSMo 89.420; effect of commission approval of plats, RSMo 89.430; plats, how drawn, shall show what, RSMo 445.020.

Sec. 41-77. - Action by council.

The council shall consider the final plat only after the city's plan commission has considered the plat and made recommendation with regard to such plat to the city council.

No final action shall be taken with respect to any plat until all fees pertaining to such plat have been paid in full.

(Code 1973, § 22.12; Ord. No. 2008-3351, § 2, 4-15-08)

Sec. 41-78. - Effective date.

Approval of the final subdivision plat shall not be finally effective until the subdivider has complied with the general requirements and minimum standards of design in accordance with Article II of this chapter, and made the improvements as required by sections 41-91 to 41-106 and 41-121, to the satisfaction of the council and so certified on such plat by its city clerk or other agent designated by the council.

(Code 1973, § 22.13)

Sec. 41-79. - Recording generally; certification by city clerk.

No plat of a subdivision shall be recorded unless and until it shall have been submitted and approved by the city plan commission and the council in accordance with the regulations set forth in this chapter and so certified by the city clerk.

(Code 1973, § 22.04)

State Law reference— Approval of plats required for recording, RSMo 89.440; use of unapproved plats in sale of land prohibited, RSMo 89.450.

Sec. 41-80. - Failure to record within sixty days.

Unless the owner of the subdivision shall have the subdivision plat recorded in the office of the recorder of deeds of the county within sixty (60) days after its final approval by the council and before any lots are sold in such subdivision, the approval of the plan of the subdivision shall be deemed to have been withdrawn and such plat shall be marked "void" and returned to the council.

(Code 1973, § 22.14)

Secs. 41-81—41-90. - Reserved.

ARTICLE IV. - IMPROVEMENTS^[4]

Footnotes:

— (4) —

Cross reference— *Streets, sidewalks and other public places, Ch. 40.*

State Law reference— *Regulations concerning improvements, RSMo 89.380, 89.460 et seq.*

Sec. 41-91. - Generally.

Improvements required in subdivisions lying in whole or in part in the city which include new streets, any easement, extension of sewer or water systems, or right-of-way connecting two (2) public streets, shall be done in the manner set out in this article.

(Code 1973, § 22.20)

Sec. 41-92. - Preparation of plans.

Plans for improvements required in this article shall be prepared by a registered engineer in accordance with state law.

(Code 1973, § 22.20(h))

Sec. 41-93. - Certain improvements to be installed prior to approval of final plat.

The improvements listed in sections 41-97, 41-98 and 41-104 shall be installed prior to the approval of the final plat, which is prepared for recording purposes.

(Code 1973, § 22.20(i))

Sec. 41-94. - Surety bond in lieu of completion of improvements.

In lieu of actual completion of the improvements listed in sections 41-98 to 41-105, the subdivider may file with the city clerk a surety bond or escrow agreement to secure to the council the actual construction of such improvements in a manner satisfactory to the council and within a period specified by the city plan commission, but such period shall not exceed three (3) years. Such bond or escrow shall be in the amount and with surety and conditions satisfactory to the council and shall be accompanied by a signed statement from the director of public works that the amount of the bond or money in escrow is adequate to cover the cost of the improvements.

(Code 1973, § 22.20(j))

Sec. 41-95. - Installation of improvements where tentative approval of final subdivision plat is obtained.

The owner of the tract may prepare and secure tentative approval of a final subdivision plat of the entire area and may install the improvements listed in this article only in a portion of such area, but the improvements must be installed in any portion of the area for which a final plan is approved for recording, and the owner may sell or lease or offer for sale or lease, lots only in the improved portion of such property; provided, however, that trunk sewers and sewage treatment plants be designed and built to serve the entire area or designed and built in such a manner that they can easily be expanded or extended to serve the entire area.

(Code 1973, § 22.20(k))

Sec. 41-96. - Two-year maintenance guaranty.

- (a) The subdivider shall provide to the satisfaction of the council a maintenance bond or in lieu thereof deposit with the director of finance of the city, cash or other security approved by the council to be held in a separate account; such bond or deposit to be in an amount equivalent to fifty (50) percent of the cost of the street improvements in such subdivision; such bond or deposit to be a guaranty against extraordinary maintenance costs, for a period of two (2) years from the date of the final acceptance of such street improvements.
- (b) Upon a determination by the director of public works that either the streets or other improvements constructed in such subdivision are deteriorating, breaking up, sinking or otherwise causing unusual maintenance cost within the two-year period, the director of public works shall notify the subdivider in writing of such fact and mail same to the last known address of such subdivider; and the director of public works shall set a reasonable time, but not to exceed thirty (30) days, in which the subdivider shall make such alterations, repairs, or replacements as shall be required by the director of public works to bring such improvements substantially to a point to meet the subdivision improvement requirements, normal wear and tear excepted.
- (c) If the repairs, alterations, or replacements are not made within the time set forth in the notice, the director of public works shall proceed to make such repairs, alterations, or replacements as may be required and the full direct costs thereof plus a reasonable charge for administrative overhead in the

performance of such work shall be charged therefor, and paid by the surety, under the bond, or charged against the deposit by the director of finance and such amount shall be paid into the general revenue funds of the city.

- (d) Any repairs, alterations or replacements of which the subdivider has been notified to correct, when such notice has been given before the expiration of the two-year period and whether or not such work has been performed, is in the process of being performed, or is to be performed, within a period of thirty (30) days after said two-year period shall be covered by such bond or such deposit. After all such work is finally completed, either by the subdivider or by the city to the satisfaction of the council, the bond shall become void, or any amount remaining on deposit to the credit of such subdivider, if any, shall be returned to the subdivider upon his application to the director of finance. Street improvements shall include the street pavement, with curb, gutter and sidewalks.

(Code 1973, § 22.20(k)(1))

Sec. 41-97. - Compliance with standards and specifications adopted by city plan commission or council; approval of sanitary sewers and drainage.

All grading shall be done, and all curbs, gutters, sidewalks, sanitary sewers, water and gas mains, fire hydrants and all other items pertaining to the development of any street or alley shall be installed in strict accordance with the standards and specifications adopted by the city plan commission or the council. Sanitary sewers and drainage must have the approval of the Metropolitan St. Louis Sewer District.

(Code 1973, § 22.20(a))

Sec. 41-98. - Grading and surfacing of streets.

Streets must be graded to the cross section and the profile approved by the city plan commission. Collector streets shall be surfaced to a width of forty-four (44) feet from back to back of curbs and minor streets shall be surfaced to a width of thirty-two (32) feet from back to back of curbs. Curbs shall be constructed along all streets.

(Code 1973, § 22.20(b))

Sec. 41-99. - Sidewalks on both sides of streets.

Sidewalks four (4) feet in width shall be provided on both sides of all streets and shall be completed no later than three (3) years after the date of the performance bond.

(Code 1973, § 22.20(d))

Sec. 41-100. - Street signs at intersections.

Street signs of a design approved by the city plan commission shall be installed at all intersections.

(Code 1973, § 22.20(e))

Sec. 41-101. - Streetlights.

- (a) All subdividers shall provide for street lighting with all cables and lines to be underground. The light standards shall either be purchased and installed by the subdivider so that there shall be no pole rental to be paid to the electric utility company by the city at any time on such light standards which are erected on public streets in the subdivision, or the subdivider may if he, they, or it, can satisfy the city that there will be no electric lighting standard rental for standards installed on public streets and will protect the city by entering into an agreement with the city holding it harmless against the rental

of such standards forever. Such streetlights shall conform to the type of streetlights currently being installed in the city. The location and number of lights required for each street shall be determined by the city plan commission after receiving a recommendation from the electric utility company supplying lines and current.

- (b) The city plan commission may accept and approve a plan of illuminating the public streets in a subdivision other than by electricity if the city plan commission is satisfied that the subdivider can provide an adequate guarantee through subdivision regulations or otherwise for the continuous illumination of the public street without a rental cost to the city for fixtures.

(Code 1973, § 22.20(g))

Sec. 41-102. - Undergrounding of utilities.

All utilities, including water, natural gas, electric, telephone and cable television, distribution mains and lines, including lateral mains and lines to residences or buildings, installed in new residential subdivisions platted hereafter shall be installed underground; except however, overhead distribution feeder lines into the subdivision, overhead through lines, above-ground cable switching inclosures, above-ground service pedestals and pad-mounted transformers shall be allowed. This provision may be waived by the city plan commission in whole or in part and another plan approved on showing by the developer or utilities, or any of them, that the cost of undergrounding all or any of such mains or lines is impractical and not economically feasible.

(Code 1973, § 22.20(g)(1))

Cross reference— Utilities generally, Ch. 45.

Sec. 41-103. - Initial rental of streetlights and fire hydrants.

All subdividers shall deposit with the city a sum of money sufficient to pay for the first two-year rental of streetlights and fire hydrants installed within their respective subdivisions.

(Code 1973, § 22.20(l))

Sec. 41-104. - Drainage system.

A drainage system shall be provided to ensure adequate drainage of both natural and stormwater for all streets and adjoining properties as approved by the city plan commission and the St. Louis Metropolitan Sewer District.

(Code 1973, § 22.20(c))

Cross reference— Grading permits, § 6-216 et seq.; floodplain management generally, Ch. 18.

Sec. 41-105. - Planting of trees; planting easements.

Street trees shall be planted wherever required by the city plan commission and the trees shall be of a size and species approved by the city plan commission. Planting easements along major street frontages shall not exceed fifteen (15) feet in width and may be required by the city plan commission.

(Code 1973, § 22.20(f))

Sec. 41-106. - Inspection.

The city shall require the subdivider to deposit with the city a sum of money, the amount to be determined by the director of public works for inspection of the improvements during construction. The rate for inspection shall be eight dollars (\$8.00) per hour with a minimum of one (1) hour.

(Code 1973, § 22.21)

Secs. 41-107—41-120. - Reserved.

ARTICLE V. - VARIANCES

Sec. 41-121. - Authorization by city plan commission.

Where a subdivider can show that a provision of this chapter would cause an unnecessary hardship if strictly adhered to, and where, because of topographical or other conditions peculiar to the site in the opinion of the city plan commission a departure may be made without destroying the intent of such provisions, the city plan commission may authorize a variance.

(Code 1973, § 22.22)

Sec. 41-122. - Entered in minutes of city plan commission.

Any variance authorized as set out in section 41-121 is required to be entered in writing in the minutes of the city plan commission and the reason on which the departure was justified set forth.

(Code 1973, § 22.23)

Chapter 42 - TAXATION^[1]

Footnotes:

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Charter reference— *Objects of licensing, taxation and regulation, § 11.6.*

Cross reference— *Finance, § 2-631 et seq.; special tax bills assessed against owners of dangerous buildings, §§ 7-194(5), 7-205.*

State Law reference— *Grant of taxing power to municipalities, Mo. Const. Art. X, Sec. 1; limitations on municipal taxing power, Mo. Const. Art. X, Secs. 11(b), 11(c); requirement of local referendum for increases in municipal taxes, licenses or fees, Mo. Const. Art. X, Sec. 22; municipal taxing powers, RSMo 71.610 et seq.; taxation in constitutional charter cities, RSMo 94.400.*

ARTICLE I. - IN GENERAL

Sec. 42-1. - County abstract basis for assessment.

For the purpose of levying taxes upon real and personal property located in the city, the certified abstract of all such property, as furnished the city by the county clerk, shall be the basis for the assessment of all such taxes upon property located within the city.

(Code 1973, § 5.01)

Sec. 42-2. - Tax rate.

Upon receiving the assessment, under the provisions of section 42-1, the council shall ascertain the amount of money to be raised thereon for general and other city purposes, and shall establish by ordinance a rate of taxes for the year.

(Code 1973, § 5.02)

Charter reference— Tax rates, § 6.8.

Sec. 42-3. - Preparation of tax books.

After the rate of taxes has been established, the director of finance shall make out appropriate and accurate tax books, and shall therein set out in suitable columns opposite the name of each person and the item of taxable property as rated by the assessor and the board of equalization the amount of taxes due thereon, whether general or special, and shall charge himself with the full amount of taxes levied and to be collected.

(Code 1973, § 5.03)

Sec. 42-4. - Tax due date.

All city taxes levied on real and personal property shall become due and payable to the director of finance not later than the first Monday in October in the year in which levied and shall become delinquent if not paid on or before December 31.

(Code 1973, § 5.04)

Sec. 42-5. - Preparation of tax bills.

The director of finance shall prepare appropriate and accurate tax bills for all items of taxes listed in the tax books.

(Code 1973, § 5.05)

Sec. 42-6. - Notice to property owners of taxes due.

Immediately after the preparation of the tax bills, the director of finance shall give notice, by mail or otherwise, to all persons owning taxes. Such notices shall be accompanied by a statement showing separately the amount of personal taxes and the amount of real estate taxes due and the date they will become delinquent.

(Code 1973, § 5.06)

Sec. 42-7. - Statement to nonresident taxpayers.

The director of finance shall furnish to any nonresident taxpayer who requests it, a statement of the amount of taxes assessed against any tract of land and on any lot in this city for any year and send the statement by mail to the address of such person. If no taxes are due on any such tracts or lots, he shall answer such inquiry, stating the facts.

(Code 1973, § 5.07)

Sec. 42-8. - Methods of payment of taxes.

- (a) Whenever any person shall pay taxes charged on tax bills, the director of finance shall enter such payment in his lists, and give the person paying the same a receipt specifying the name of the person for whom paid, the amount paid, the year paid for and the property and value thereof on which the same was paid, according to its description on the director's list in whole or in part as the case may be. The director of finance shall also enter "paid" against each tract or lot of ground when he collects the tax thereon. The director of finance shall receive taxes on part of any lot, piece or parcel of land

part. If the tax on the remainder of such lot or parcel of land remains unpaid, the director of finance shall enter such specification in his return, so that the part on which the tax remains unpaid may be clearly known. If payment is made on an individual share of real estate, the director of finance shall enter on his records the name of the owner of such share, so as to designate upon whose undivided share the tax has been paid.

- (b) Whenever any funds are remitted by mail or otherwise to the director of finance for the payment of any taxes appearing to be due on tax bills, it shall be his duty to receive the same and send a receipt therefor by mail to the person remitting the same. He may charge all sums which he shall have to pay for postage as costs against the person applying or remitting to him, but no other costs.

(Code 1973, §§ 5.08, 5.09)

Sec. 42-9. - Park tax levied.

The council shall levy annually a tax of not less than one and four-tenths (1.4) mills on the dollar on all taxable property in the city for the acquisition, improvement, maintenance and use of public parks and recreation programs. The council may at any time increase such levy within the limits established by law. Such tax shall be collected in the same manner as are other taxes of the city, and the receipts shall be credited to the park fund.

(Ord. No. 85-2054, § 1(4.31), 2-12-85)

Cross reference— Parks and recreation, Ch. 30.

State Law reference— Municipal park taxes, RSMo 90.010, 90.500.

Secs. 42-10—42-20. - Reserved.

ARTICLE II. - OCCUPATIONAL LICENSE TAXES^[2]

Footnotes:

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Cross reference— *Licenses for the sale of alcoholic beverages, § 4-26 et seq.; license for operation of kennels, § 6-78; license for massage salons, bath houses or health salons businesses, § 26-31 et seq.; license to operate a mobile home park or trailer park, § 27-21; licensing for alarm systems, § 29-244; license for commercial solid waste collections, § 36-51; taxicab business license, § 47-12.*

DIVISION 1. - GENERALLY

Sec. 42-21. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Annual gross receipts shall mean gross receipts during the license year.

Business or occupation shall mean any business, service, occupation, pursuit, profession or trade, or the keeping or maintaining of any institution, establishment, article, utility or commodity within the city, except as may be otherwise provided by this Code.

Fee shall mean license fees and taxes levied on or required to be paid by any merchant, business or occupation.

Gross receipts shall mean the aggregate amount of all articles, services, goods, wares and merchandise sold from a place or manufactured at a place within the city whether sold for cash or on credit, irrespective of when paid, without any deduction on account of the cost of any items sold, the cost of any materials used, any labor or service costs, interest paid or payable, or any losses or any other expenses; provided, however, that the following shall be excluded from any computation of gross receipts if the books of accounts aggregate the amounts so as to reflect such exclusions:

- (1) Receipts of taxes levied by state and federal governments and collected by the seller;
- (2) Receipts of traded merchandise recorded as cash receipts and resold and recorded as a sale or resale;
- (3) Interdepartmental sales within the organization of the seller;
- (4) Such part of the sales price of property returned by the purchaser as is refunded either in cash or by credit;
- (5) Receipts of refundable deposits, except that portion of refundable deposits forfeited and taken into the gross receipts of the seller;
- (6) Receipts for sales of gasoline;
- (7) Receipts for sales of beer, wine and intoxicating liquors;
- (8) In the case of a parent company whose books of record reflect the sales of its subsidiary or subsidiaries, the receipts of sales of such subsidiary or subsidiaries may be excluded except for such subsidiary or subsidiaries whose plant or place of business is located within the city, unless such subsidiary or subsidiaries so located in the city are separately licensed.

License shall mean any license required to be secured under this chapter.

License year, unless otherwise provided, shall mean the year beginning May 1, or, in the case of businesses newly established, at the beginning of doing business, and ending on the following April 30, except that any merchant or business whose license fee is computed on the basis of annual gross receipts may, only upon prior approval by the director of finance, elect a license year which coincides with the merchant or business, accounting and federal tax fiscal year.

Merchant shall mean any person engaged in the selling of any goods, wares or merchandise at any store, stand or place occupied for that purpose within the city except as may be otherwise provided by this Code.

Manufacturer shall mean any person engaged in the production of some article, thing or object by skill or labor out of raw materials, or from matter that has already been subjected to artificial forces or to which something has been added to change its natural condition.

(Code 1973, § 32.01)

State Law reference— Merchant defined, construed, RSMo 150.010, 150.020, 150.030; manufacturer defined, RSMo 150.300.

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 42-22. - License required.

No person shall engage in any of the businesses, trades or avocations described in this article within the city without first having obtained a license therefor from the city clerk or the director of finance and paying to the director of finance the designated fee or tax. The license shall be for the annual license year. No license, as provided for in this section, may be issued until the applicant first receives a certificate of occupancy for the premises wherein the business, trade, or avocation is to be conducted. This section shall not apply to home occupations, as defined in section 49-2.0., Definitions.

(Code 1973, § 32.02; Ord. No. 92-2670, § 1, 9-28-93)

Sec. 42-23. - Fee schedule.

The following fee schedule shall apply to all merchants, businesses and occupations and manufacturers:

(1) Flat fees:

- a. *Ambulance service*: No charge.
- b. *Coin-operated machines of any kind*:

Machine charge	Fee
\$0.01	No charge
0.05	\$ 5.00 per machine
0.10	10.00 per machine
0.25 or over	25.00 per machine

- (2) All merchants, businesses and occupations and manufacturers, with gross receipts of thirty thousand dollars (\$30,000.00) or less shall pay an annual license fee of thirty dollars (\$30.00).
- (3) All merchants, businesses and occupations and manufacturers, with gross receipts in excess of thirty thousand dollars (\$30,000.00) shall pay an annual license fee of one dollar (\$1.00) per one thousand dollars (\$1,000.00) of gross receipts up to five hundred thousand dollars (\$500,000.00); seventy-five cents (\$0.75) per one thousand dollars (\$1,000.00) of gross receipts up to one million dollars (\$1,000,000.00); fifty cents (\$0.50) per one thousand dollars (\$1,000.00) of gross receipts for all receipts over one million dollars (\$1,000,000.00).
- (4) The annual fee shall in no event exceed the sum of fifty thousand dollars (\$50,000.00).
- (5) Any business or occupation subject to a flat annual fee commenced after December 1 of the license year is obliged to pay only one-half of the annual license fee for the remainder of the license year.

(Code 1973, § 32.03)

Sec. 42-24. - Gross receipts fee payments.

- (a) Every person required to pay a license fee based on gross receipts shall pay the annual license fee based on the actual gross receipts of such person for the last preceding calendar year, and any person commencing operations or business in the city during any license year shall pay at the time of such commencement a license fee based on estimated gross receipts for the remainder of the license year. Any such person shall, within one (1) month after the end of such prorated license year, file an estimated return for the ensuing license year and pay at that time license fee based on such estimate; provided, however, that within one (1) month after the end of each of the periods of estimated gross receipts, such person shall file a statement of actual gross receipts and shall pay an additional tax, if any, based on the actual gross receipts.
- (b) Any payment of a license fee based on estimated or actual gross receipts which shall be in excess of the amount due to the city shall not be refunded except in the case of cessation of operations or business, but shall be applied as a credit for the license fee for the ensuing year.

(Code 1973, § 32.04)

Sec. 42-25. - Statement of gross receipts.

Every person obliged to pay a license fee based on the annual gross receipts of such person shall furnish the city a correct statement in writing showing the amount of such annual receipts, which statement shall not be made public or used by the city except for the purpose of establishing a correct basis for fixing and collecting the amount of the license fee as provided in this article. All books of account showing the amount of such annual gross receipts shall be open to the inspection of the city officials charged with the duty of issuing the license as provided in this article and collecting for the same, and the issuance of any such license may be withheld until all the requirements have been fulfilled.

(Code 1973, § 32.10)

Sec. 42-26. - Transfer of license.

- (a) No license shall be assignable or transferable. In the case of the sale of a business during the annual license year, the purchaser must apply for and obtain the license required pursuant to section 42-22 herein.
- (b) No license fees paid under this chapter shall be refundable. Any new license issued for an existing business due to the purchase of said business will be subject to the fee schedule set forth in section 42-23 and there shall be only proration of that license if issued after December 1 as provided in section 42-23, Fee Schedule, subsection (5).

(Code 1973, § 32.05; Ord. No. 95-2755, § 1, 1-10-95; Ord. No. 95-2775, § 1, 1-10-95)

Sec. 42-27. - Separate license for each place of business.

A separate license shall be obtained for each stand, store or place of business conducted, operated or maintained by every merchant, business or occupation or manufacturer for which a license is required, and the director of finance shall be notified of any change of address within seven (7) days after such change.

(Code 1973, § 32.06)

Sec. 42-28. - Additional businesses at same address.

Whenever any applicant for a license is engaged in more than one (1) occupation or business at the same address, such applicant may at his option, in lieu of making application and paying for a separate license for each such occupation or business, make application and pay for the occupation or business

license for only the major or principal business or occupation of the applicant at such address, but he shall report the sales of each such occupation or business separately as part of the gross receipts of the licensed business.

(Code 1973, § 32.07)

Sec. 42-29. - Sale, rent or lease of a portion of premises.

Any merchant, business or occupation or manufacturer which sells, rents or leases any portion of its stand, store, place of business or premises to another whose sales will not be included in the return of the lessor shall report the fact of such sale, renting or leasing together with the name and address of the purchaser, renter or lessee in writing to the director of finance. Such report shall be made within five (5) days after such purchaser, renter or lessee has taken possession and shall include a general description of all goods, commodities or ware-dispensing devices installed in the premises by such purchaser, renter or lessee.

(Code 1973, § 32.08)

Sec. 42-30. - Examination of applicant's books, records.

The director of finance, or any certified public accountant employed by him, shall have the right at all reasonable times during regular business hours to audit or examine the books and records of the applicant for any license for the purpose of determining the truthfulness and accuracy of any statements made by the applicant in his application for license or in the payment of his license tax.

(Code 1973, § 32.09)

Sec. 42-31. - Violations; penalties.

- (a) *Delay in payment.* All license fees provided for in this article shall be deemed delinquent if not paid by May 31 of each year, and any person so delinquent shall pay to the director of finance an additional ten (10) percent of the amount due for the first month of such delinquency and one (1) percent of the amount due for each month or part thereof that such delinquency thereafter continues, in addition to any other penalty prescribed in this chapter.
- (b) *False statements causing reduction in payment.* Any person who makes a false statement which causes a reduction in any license fee shall be required to pay to the director of finance the additional amount due, plus a penalty of twenty-five (25) percent of such additional amount, plus one (1) percent interest per month or fraction thereof on such additional amount from the date originally due, in addition to any other penalties prescribed in this chapter.
- (c) *Noncompliance or violation.* Any failure to comply with or any violation of any provision of this article shall be guilty, upon conviction thereof, of an offense. Any fine assessed for such an offense shall be in addition to any other penalties assessed for delinquency or false statements causing a reduction in payment.
- (d) *Revocation.* Any failure to comply with or any violation of any provision of this article by any licensee under this article shall be cause for revocation or suspension of such license by the council upon recommendation of the city manager, and such revocation or suspension shall be in addition to any other penalties prescribed in this chapter.

(Code 1973, § 32.11; Ord. No. 85-2112, § 1, 11-26-85)

Secs. 42-32—42-40. - Reserved.

DIVISION 2. - UTILITIES

Sec. 42-41. - Gross receipts defined.

The term "gross receipts" means the aggregate amount of all sales and charges of the commodities or services described in sections 42-42(a), 42-43(a), 42-44(a) and 42-45(a) made by a public utility operation in the city during any calendar year less discounts, credits, refunds, sales taxes and noncollectible accounts charged off during such year.

(Code 1973, § 33.06)

Sec. 42-42. - Gas utility.

- (a) *Annual license tax.* Every person engaged in the business of selling or distributing natural, artificial or mixed natural and artificial gas in the city shall pay the city an annual license tax equal to six (6) percent of the gross receipts from such business conducted in the city.
- (b) *Statement of receipts.* Every person described in subsection (a) shall file with the director of finance on or before the thirtieth day after the end of each calendar month a sworn statement of the gross receipts of such person from such business for the calendar month preceding such statement. At the time of filing the statement, such person shall also pay to the director of finance an amount equal to six (6) percent of the gross receipts shown by such statement.
- (c) *Exemption from other taxes.* The tax required to be paid under this section shall be in lieu of all other excise, license or occupation taxes upon any such person, but shall not exempt such person from the payment to the city of the tax the city levies upon any real or personal property belonging to any such person.
- (d) *Inspection of books.* The director of finance may investigate the correctness and accuracy of the statement required and for that purpose shall have access at all reasonable times to the books, documents, papers and records of any person making such statement in order to ascertain the accuracy thereof.

(Code 1973, § 33.01)

Sec. 42-43. - Electric utility.

- (a) *Annual license tax.* Every person engaged in the business of supplying electricity for compensation within the city shall pay the city an annual license tax equal to six (6) percent of the gross receipts from such business.
- (b) *Statement of receipts.* Every person described in subsection (a) shall file with the director of finance on or before the thirtieth day after the end of each calendar month, a sworn statement of the gross receipts of such person from such business for the calendar month preceding such statement. At the time of filing the statement, such person shall also pay to the director of finance an amount equal to six (6) percent of the gross receipts shown by such statement.
- (c) *Inspection of books.* The director of finance may investigate the correctness and accuracy of the statement required and for that purpose shall have access at all reasonable times to the books, documents, papers and records of any person making such statement in order to ascertain the accuracy thereof.
- (d) *Exemption from other taxes.* The tax required to be paid under this section shall be in lieu of any other occupation tax upon such person, but shall not exempt such person from the payment to the city of the tax which the city levies on any real or personal property belonging to any such person, nor the

tax required of merchants or manufacturers for the sale of anything other than electricity, nor shall the tax required in this section exempt any such person from the payment of any other tax which may lawfully be required other an occupation tax on the business described in this section.

(Code 1973, § 33.02)

Sec. 42-44. - Water utility.

- (a) *Annual license tax.* Every person engaged in the business of selling or distributing water in the city shall pay the city an annual license tax equal to six (6) percent of the gross receipts from such business conducted in the city.
- (b) *Statement of receipts.* Every person described in subsection (a) shall file with the director of finance on or before the thirtieth day after the end of each calendar month a sworn statement of the gross receipts of such person from such business for the calendar month preceding such statement. At the end of filing the statement, such person shall also pay to the director of finance an amount equal to six (6) percent of the gross receipts shown by such statement.
- (c) *Exemption from other taxes.* The tax required to be paid under this section shall be in lieu of all other excise, license or occupation taxes upon such person, but shall not exempt such person from the payment to the city of any tax the city levies upon any real or personal property belonging to any such person.
- (d) *Inspection of books.* The director of finance may investigate the correctness and accuracy of the statement required and for that purpose shall have access at all reasonable times to the books, documents, papers and records of any person making such statement in order to ascertain the accuracy thereof.

(Code 1973, § 33.03)

Sec. 42-45. - Telephone service.

- (a) *Annual license tax.* Every person engaged in the business of furnishing exchange telephone service in the city shall pay the city an annual license tax equal to six (6) percent of the local exchange revenue derived from furnishing telephone service to customers within the city.
- (b) *Statement of revenue.* Every person described in subsection (a) shall file with the director of finance on or before the thirtieth day after the end of each calendar month a sworn statement of the local exchange revenue derived by such person from the furnishing of telephone service to customers within the city during the preceding month. Such person shall, at the time of such statement, pay to the director of finance six (6) percent of such revenue as shown by such statement.
- (c) *Exemption from other taxes.* The tax required to be paid under this section shall be in lieu of all other excises, charges, exactions, rentals, impositions or other license or occupation taxes imposed upon any such person; but shall not exempt such person from any general or special ad valorem tax imposed upon the public generally by the city.
- (d) *Inspection of books.* The director of finance may investigate the correctness and accuracy of the statement required and for that purpose shall have access at all reasonable times to the books, documents, papers and records of any person making such statement in order to ascertain the accuracy thereof.

(Code 1973, § 33.04; Ord. No. 2006-3267, § 2, 4-25-06; Ord. No. 2006-3287, § 1, 10-24-06)

Sec. 42-46. - Business license tax to be maintained.

The city council has made its determination pursuant to RSMo § 393.275 to maintain the tax rate of its business license tax on the gross receipts of utility corporations, without reduction, regardless of the amount of any tariff increase. Therefore, the rates for business license taxes set forth in this chapter shall be maintained, without reduction, regardless of the amount of any tariff increase.

(Ord. No. 2010-3449, § 2, 11-9-10)

Secs. 42-47—27-50. - Reserved.

DIVISION 3. - HOTELS, MOTELS, BOARDINGHOUSES AND PRIVATE CLUBS^[3]

Footnotes:

--- (3) ---

State Law reference— *Hotel, motel and resort regulations, RSMo Ch. 315.*

Sec. 42-51. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bed and breakfast inn shall mean a single-family residence, occupied and managed by the owner or resident manager, providing overnight accommodations for transient guests for a charge for more than ten (10) nights in any calendar year. A bed and breakfast inn is a type of specialty or historic boardinghouse.

Boardinghouse shall mean any dwelling, other than a hotel, where meals and lodgings are provided to transient guests for compensation.

Hotel shall mean any building occupied as the abiding place of transient guests who are lodged with or without meals, in which the rooms are occupied for hire, and in which there are fifteen (15) or more individual sleeping rooms, access to which is gained through passage through a central lobby.

Motel shall mean any building, or group of buildings, occupied as an abiding place for transient guests who are lodged with or without meals, in which the rooms are occupied for hire, and in which there are fifteen (15) or more individual sleeping rooms, access to which is gained from passage through a parking lot, not a central lobby.

Private club shall mean any dwelling or structure where lodging and board and lodging is furnished to its own members, including fraternity and sorority chapter houses.

(Code 1973, § 13.01; Ord. No. 97-2890, § 1, 2-11-97; Ord. No. 2009-3393, § 1, 4-28-09)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 42-52. - License required.

No person shall establish, maintain, conduct, operate or manage any hotel, motel, boardinghouse, bed and breakfast inn or private club within the city without a license to do so.

(Code 1973, § 13.02(a); Ord. No. 97-2890, § 1, 2-11-97; Ord. No. 2009-3393, § 1, 4-28-09)

Sec. 42-53. - License application.

Application for a license required by section 42-52 shall be made to the director of finance and shall set forth the name and address of the person or group of persons expecting to operate such hotel, motel, boardinghouse, bed and breakfast inn or private club; the location of the same; the number of rooms available for guests; and the capacity thereof in number of guests that can be accommodated.

(Code 1973, § 13.02(b); Ord. No. 97-2890, § 1, 2-11-97; Ord. No. 2009-3393, § 1, 4-28-09)

Sec. 42-54. - Inspections; reports; issuance of license.

Upon receipt of the license application, the director of finance shall refer the same to the director of public works, who shall make an inspection of the premises from the standpoint of health and sanitation, and to the fire chief who shall make an inspection from the standpoint of safety. The director of public works and the fire chief shall make a report of their inspection which, together with the application, shall be referred to the council. If the council is satisfied that the establishment contemplated by the applicant is in compliance with the laws and ordinances of the city, it shall direct the issuance of the license.

(Code 1973, § 13.02(c); Ord. No. 2009-3393, § 1, 4-28-09)

Sec. 42-55. - Fees.

The annual fees for the license required by this section are as follows:

- (1) *Hotels and motels*: Fifty cents (\$0.50) per room, but not less than ten dollars (\$10.00) nor more than one hundred fifty dollars (\$150.00);
- (2) *Boardinghouses and bed and breakfast inns*: Fifty cents (\$0.50) per room, but not less than ten dollars (\$10.00);
- (3) *Private clubs*: Fifty cents (\$0.50) per room, but not less than ten dollars (\$10.00).

(Code 1973, § 13.02(d); Ord. No. 97-2890, § 1, 2-11-97; Ord. No. 2009-3393, § 1, 4-28-09)

DIVISION 4. - RESIDENTIAL RENTAL REAL ESTATE

Sec. 42-56. - Definitions.

[Certain terms as used in this division shall have the following meanings:]

Dwelling. A building or portion thereof designed and used exclusively for residential occupancy, but not including trailers, mobile homes, hotels, motels, boardinghouses, bed and breakfast inns, fraternity and sorority chapter houses, or tourist homes.

Dwelling, duplex. A building designed for or occupied by two (2) families with the individual units adjacent to one another as opposed to one above the other.

Dwelling, multiple. A building or portion thereof designed for or occupied by three (3) or more families.

Dwelling, single-family. A building designed for or occupied exclusively by one (1) family.

Dwelling, two-family. A building designed for or occupied exclusively by two (2) families.

Dwelling unit. A room or suite of rooms used as a single-family dwelling including bath and culinary accommodations.

Owner. The owner of record of residential rental property, whether an individual(s), trust, partnership or corporate entity.

Residential rental property. A residential dwelling, or portion thereof, occupied by, or offered for rent, lease, or occupancy, to any person(s) who otherwise qualify for an occupancy permit, who are not the owners of record of said property. "Residential rental property" is synonymous with "rooming house."

Rooming house. A residential dwelling, or portion thereof, occupied by, or offered for rent, lease, or occupancy, to any person(s) who otherwise qualify for an occupancy permit, who are not the owners of record of said property. "Rooming house" is synonymous with "residential rental property."

(Ord. No. 95-2784, § 1, 7-25-95; Ord. No. 2003-3175, § 1, 4-22-03; Ord. No. 2009-3394, § 1, 4-28-09)

Sec. 42-57. - License required.

No person shall permit the offer for rent, lease, or occupancy any residential rental property to any person(s) who are not the owners of record within the city without a license issued pursuant to the licensing provisions of Chapter 25 of this Code.

No person shall permit the continued occupancy of any residential rental property to any person(s) who are not the owners of record within the city without maintaining a responsible or provisional license issued pursuant to the licensing provisions of Chapter 25 of this Code.

(Ord. No. 95-2784, § 1, 7-25-95; Ord. No. 2006-3257, § 3, 1-24-06)

Sec. 42-58. - License application.

Application for a license, renewal of a license, reinstatement of a license or for change in the license classification shall be made in accordance with the requirements of Chapter 25 of this Code.

(Ord. No. 95-2784, § 1, 7-25-95; Ord. No. 2006-3257, § 3, 1-24-06)

Sec. 42-59. - Fees.

The license fee for a license required under this division and chapter shall be fifty dollars (\$50.00). Nothing in this section shall be construed to preclude the city from imposing additional fees upon the owner or occupier of residential rental property which are to cover the costs of goods or services provided by the city and/or required for particular residential rental properties.

(Ord. No. 95-2784, § 1, 7-25-95; Ord. No. 2001-3123, § 1, 6-26-01; Ord. No. 2003-3175, § 1, 4-22-03; Ord. No. 2006-3257, § 3, 1-24-06; Ord. No. 2009-3394, § 1, 4-28-09)

Sec. 42-60. - Occupancy prohibited.

No license shall be issued except in accordance with the provisions of Chapter 25 of this Code and unless and until all fees due hereunder, including any fines, delinquency penalties or other charges imposed pursuant to Chapter 25 of this Code, are paid in full. No occupancy permit shall be issued for the occupancy of any residential rental property without the appropriate license for such rental.

(Ord. No. 95-2784, § 1, 7-25-95; Ord. No. 2006-3257, § 3, 1-24-06)

Sec. 42-61. - Revocation or suspension of residential real estate license.

- (a) In addition to the grounds for revocation or suspension of a residential real estate license set forth in Chapter 25 of this Code, in the event any subscriber, owner or occupant is more than ninety (90) days delinquent in the payment of any charges pursuant to Article IV of Chapter 37 of this Code, or if there is a delinquency in any taxes, license fees or other amounts due the city which shall include, but not be limited to, assessments for nuisance abatement, weed cutting and boarding up of properties which are incurred after the effective date of this section, then any residential rental license issued to the owner shall be revoked in accordance with the provisions of Chapter 25 of this Code.
- (b) It shall be unlawful for the owner or subscriber to continue to lease or accept rental payments for premises when a residential rental real estate license has been suspended or revoked.
- (c) It shall be unlawful for any occupant to continue to inhabit or pay rent for premises for which a residential rental real estate license has been suspended or revoked.

(Ord. No. 97-2901, § 1, 4-22-97; Ord. No. 2006-3257, § 3, 1-24-06)

Sec. 42-62. - Penalty.

A person convicted of any violation of sections 42-56 through 42-61 shall be punished in accordance with section 1-15, general penalty provisions, of the Municipal Code of the City of Ferguson.

(Ord. No. 97-2901, § 1, 4-22-97; Ord. No. 2006-3257, § 3, 1-24-06)

DIVISION 5. - OUTDOOR ADVERTISING

Sec. 42-63. - Definitions.

Gross annual revenue produced by outdoor advertising. The aggregate annual amount of all revenues, whether from cash or credit received for the placement, keeping, or maintenance of any off-premises commercial outdoor sign, display, device, figure, painting, drawing, message, plaque, poster, billboard, or other thing, designed, intended, or used to advertise or inform, any part of the advertising or information contents of which is visible from any point of the traveled ways of the roadways within the city.

Outdoor advertisement shall mean any off-premises commercial outdoor sign, display, device, figure painting, drawing, message, plaque, poster, billboard, or other thing, intended, or used to advertise or inform, any part of the advertising or information contents of which is visible from any point of the traveled ways of the roadways within the city.

If the structure of any such outdoor advertisement shall contain more than one outdoor advertisement within its structure, then each such outdoor advertisement shall be considered an individual outdoor advertisement for purposes of this chapter.

(Ord. No. 97-2905, § 1(27.61), 5-27-97; Ord. No. 99-3020, § 1, 1-12-99)

Sec. 42-64. - Fees and taxes for outdoor advertising.

- (a) All owners and operators of outdoor advertisements, as defined in this chapter, and except as otherwise provided by ordinance, shall pay to the city, for each outdoor advertisement owned and/or operated by same, two (2) percent of the gross annual revenue produced by outdoor advertising of each respective outdoor advertisement as and for an annual outdoor license tax, at such times as provided in this chapter.
- (b)

All owners and operators of outdoor advertisements, as defined in this chapter, and except as otherwise provided by Ordinance, shall pay to the city an initial inspection fee of five hundred dollars (\$500.00) for each outdoor advertisement owned and/or operated by same.

(Ord. No. 97-2905, § 1(27.62), 5-27-97; Ord. No. 99-3020, § 1, 1-12-99)

Sec. 42-65. - Outdoor advertisement license required.

No person shall engage in the business of outdoor advertisement within the city without first having obtained a license therefor from the city clerk or the director of finance and paying to the director of finance the designated tax. The license shall be for the annual license year.

(Ord. No. 97-2905, § 1(27.63), 5-27-97)

Sec. 42-66. - Outdoor advertising gross annual revenue.

- (a) Every person required to pay an outdoor advertising occupational license tax based on gross annual revenue produced from outdoor advertising shall pay the annual license tax based on the actual gross revenue from outdoor advertising of such person for the last preceding calendar year; and, any person commencing outdoor advertising in the city during any license year shall pay, at the time of such commencement, a license tax based on estimated gross revenue for the remainder of the license year. Any such person shall, within one (1) month after the end of said pro-rated license year, file an estimated return for the ensuing license year and pay at that time a license tax based on such estimate; provided, however, that within one (1) month after the end of each of the periods of estimated gross revenue from outdoor advertising, such person shall file a statement of actual gross revenue from outdoor advertising and shall pay an additional tax, if any, based on the actual gross revenue from outdoor advertising.
- (b) Any payment of license tax based on estimated or actual gross revenue from outdoor advertising which shall be in excess of the amount due the city shall not be refunded except in the case of cessation of outdoor advertising, but shall be applied as a credit for the license tax for the ensuing year.

(Ord. No. 97-2905, § 1(27.64), 5-27-97; Ord. No. 99-3020, § 1, 1-12-99)

Sec. 42-67. - Statement of gross revenue produced by outdoor advertising.

Every person obliged to pay an outdoor advertising occupational license tax based on gross revenue produced by outdoor advertising of such person shall furnish the city a correct statement in writing showing the amount of such annual revenue, which statement shall not be made public or used by the city except for the purpose of establishing a correct basis for fixing and collecting the amount of a license tax as provided in this article.

All books of account showing the amount of such gross annual revenue produced by outdoor advertising shall be open to the inspection of the city officials charged with the duty of issuing the licenses provided in this article and collecting for same, and the issuance of any such license may be withheld until all the requirements have been fulfilled.

(Ord. No. 97-2905, § 1(27.65), 5-27-97; Ord. No. 99-3020, § 1, 1-12-99)

Sec. 42-68. - Transfer of license.

- (a) No license under this division shall be assignable or transferrable. In the case of the sale of an outdoor advertisement during the annual license year, the purchaser must apply for and obtain the

- (b) No license taxes paid under this division shall be refundable. Any new license issued for an existing outdoor advertisement due to the purchase of said outdoor advertisement will be subject to the taxes set forth herein.

(Ord. No. 97-2905, § 1(27.66), 5-27-97)

Sec. 42-69. - Separate license for each outdoor advertisement.

A separate license shall be obtained for each outdoor advertisement kept, placed, or maintained in the City of Ferguson.

(Ord. No. 97-2905, § 1(27.67), 5-27-97)

Sec. 42-70. - Examination of books and records.

The director of finance, or any certified public accountant employed by the director of finance, shall have the right at reasonable times during regular business hours, to audit or examine the books and records of the applicant for any license for the purpose of determining the truthfulness and accuracy of any statements made by the applicant in his/her application for a license or in the payment of his/her license tax.

(Ord. No. 97-2905, § 1(27.68), 5-27-97)

Sec. 42-70.1. - Violations; penalties.

- (a) *Delay in payment.* All license taxes provided for in this division shall be deemed delinquent if not paid by May 31 of each year, and any person so delinquent shall pay to the director of finance an additional ten (10) percent of the amount due for the first month of such delinquency and one (1) percent of the amount due for each month or part thereof as such delinquency thereafter continues, in addition to any other penalty prescribed in this chapter.
- (b) *False statements causing reduction in payment.* Any person who makes a false statement which causes a reduction in any license tax herein shall be required to pay to the director of finance the additional amount due, plus a penalty of twenty-five (25) percent of such additional amount, plus one (1) percent interest per month or fraction thereof on such additional amount from the date originally due, in addition to any other penalties prescribed in this chapter.
- (c) *Noncompliance or violation.* Any person who fails to comply with or commits any violation of any provision of this article shall be guilty, upon conviction thereof, of an offense. Any fine assessed for such offense shall be in addition to any other penalties assessed for delinquency or false statements causing a reduction in payment.
- (d) *Revocation.* Any failure to comply with, or any violation of any provision of this article by any licensee under this article, shall be cause for revocation or suspension of such license by the council upon recommendation of the city manager, and such revocation or suspension shall be in addition to any other penalties prescribed in this chapter.

(Ord. No. 97-2905, § 1(27.69), 5-27-97)

ARTICLE III. - MOTOR VEHICLE LICENSES^[4]

Footnotes:

— (4) —

Cross reference— *Traffic and motor vehicles, Ch. 44.*

State Law reference— *Municipal authority to impose license taxes on owner of and dealers in motor vehicles, RSMo 301.340.*

Sec. 42-71. - Definitions.

Certain terms as used in this article shall have the following meanings:

Automobile. Any self-propelled vehicle not operated exclusively upon tracks, except farm tractors, trucks, and motorcycles.

Motorcycles. Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor.

Truck. Any vehicle, machine, tractor, trailer or semitrailer, or any combination thereof, propelled or drawn by mechanical power and designed or used for the transportation of property upon the highways.

(Ord. No. 96-2866, § 1, 10-8-96)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 42-72. - Fee.

Every resident owner of an automobile, truck, and/or motorcycle shall annually pay a motor vehicle license fee in the amount of two dollars and fifty cents (\$2.50) per automobile, truck, and/or motorcycle.

(Ord. No. 96-2866, § 1, 10-8-96)

Sec. 42-73. - Collection.

The annual motor vehicle license fee shall be collected by the County of St. Louis in accordance with the terms of the contractual agreement in effect between the City of Ferguson and the County of St. Louis.

(Ord. No. 96-2866, § 1, 10-8-96)

Sec. 42-74. - Issuance of city sticker.

The city, as a service to its residents, shall make available, upon request, a decalcomania or transparent windshield sticker bearing the words, "City of Ferguson, Missouri," on the sticker which may be affixed to the lower right-hand corner of the windshield of each automobile, motorcycle, and/or truck in plain view. No penalty, fine, or other assessment shall be levied against any owner who fails to display said sticker on his automobile, motorcycle, and/or truck.

(Ord. No. 96-2866, § 1, 10-8-96)

Secs. 42-75—42-95. - Reserved.

ARTICLE IV. - DELINQUENT TAXES^[5]

Footnotes:

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Cross reference— *Utilities, Ch. 45.*

State Law reference— *Collection of delinquent taxes generally, RSMo Ch. 140.*

Sec. 42-96. - Enforcing payment

The director of finance shall enforce the payment of city taxes in the same manner and under the same rules and regulations as are or may be provided by law for the collection and enforcement of the payment of state and county taxes. All suits for collection for city taxes shall be brought in the name of the city to the use of the director of finance.

(Code 1973, § 5.15)

Sec. 42-97. - Penalty for delinquency.

On the first day of January of each year a penalty of two (2) percent shall be added to all city taxes remaining due and unpaid on that date, and upon the first day of each month thereafter an additional penalty of one (1) percent per month shall be added to all such taxes remaining unpaid. Penalties shall not exceed ten (10) percent.

(Code 1973, § 5.10)

Sec. 42-98. - Charges on delinquent property taxes.

There shall be charged as costs two (2) percent upon all taxes for real estate and personal property allowed to become delinquent. There shall be a charge of fifteen cents (\$0.15) for each piece of real estate entered in the delinquent tax book and a charge of ten cents (\$0.10) for each piece of personal property entered in the delinquent tax book.

(Code 1973, § 5.11)

Sec. 42-99. - Delinquent lists.

- (a) The director of finance shall make out under oath and deliver to the council at its first regular meeting on July of each year, or as soon thereafter as may be, lists of delinquent taxes remaining due and uncollected for each year, to be known as the land and lots delinquent list and the personal delinquent list.
- (b) It shall be the duty of the council at the meeting at which it receives from the director of finance the lists of delinquent taxes remaining due and uncollected, or as soon thereafter as may be, to carefully examine the same. If it appears that all property and taxes contained therein are properly rated as delinquent, the council shall approve the same and cause a record thereof to be entered on the journal, and cause the amount of such lists to be credited to the account of the city collector.

(Code 1973, §§ 5.12, 5.13)

Sec. 42-100. - Collection.

When the lists of delinquent taxes have been approved by the council, they shall be returned to the director of finance, who shall be charged therewith. The director of finance shall proceed to collect the same in like manner and under the same regulations as are or may be provided by law for the collection of the delinquent lists of real and personal taxes for state and county purposes.

(Code 1973, § 5.14)

Sec. 42-101. - Uncollectible taxes.

The council shall have the power to declare worthless any delinquent taxes which it may deem uncollectible.

(Code 1973, § 5.16)

Chapter 44 - TRAFFIC AND MOTOR VEHICLES^[1]

Footnotes:

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Cross reference— *Mobile homes and trailers, Ch. 27; offenses, Ch. 29; traffic regulations for public parks, § 30-52; police, Ch. 53; streets, sidewalks and other public places, Ch. 40; motor vehicle licenses, § 42-71 et seq.; vehicles for hire, Ch. 47.*

State Law reference— *Motor vehicles, RSMo Ch. 300 et seq.; municipal regulation of traffic, RSMo 304.120.*

ARTICLE I. - IN GENERAL

Sec. 44-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alley or *alleyway* shall mean any street with a roadway of less than twenty (20) feet in width.

Authorized emergency vehicle shall mean a vehicle publicly owned and operated as an ambulance, or a vehicle publicly owned and operated by the state highway patrol, police or fire department, sheriff or constable or deputy sheriff, traffic officer or any privately owned vehicle operated as an ambulance when responding to emergency calls.

Bicycle shall mean every vehicle propelled solely by human power upon which any person may ride, having two (2) tandem wheels, except scooters and similar devices.

Bus shall mean any vehicle or motorcar designed and used for the purpose of carrying more than seven (7) persons.

Business district shall mean the territory contiguous to and including a highway when within any six hundred (600) feet along the highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway.

Central business or traffic district shall mean all streets and portions of streets within the area described by city ordinance as such.

Commercial vehicle shall mean any vehicle that is for hire and is designated, maintained, or used for the delivery or transportation of freight, merchandise, property, tools, or other equipment for hire. It shall also include vehicles for hire for the transportation of persons for a fee or other consideration. It shall not include station wagons, pick up trucks, vans, or other similar vehicles unless said vehicles are, in fact, used for the delivery or transportation of freight, merchandise, property, tools, other equipment used for hire, or the transportation of persons for a fee or other consideration.

Congested district shall mean any district lawfully designated by this chapter as a "congested district."

Controlled-access highway shall mean every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from lands and other persons have no legal right of access to or from the same except at such points only and in such manner

Crosswalk shall mean:

- (1) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or in the absence of curbs, from the edges of the traversable roadway.
- (2) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Curb shall mean the lateral boundaries of that portion of a street designated for the use of vehicles, whether marked with curbstones or not.

Curb loading zone shall mean a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

Driver shall mean every person who drives or is in actual physical control of a vehicle.

Freight curb loading zone shall mean a space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight or passengers.

Highway shall mean every way or place open for vehicular travel by the public and regardless of whether it has been legally established by constituted authority or used for the statutory period of time as a public highway.

Improved street or highway shall mean a street or highway which has been paved with gravel, macadam, concrete, brick or asphalt, or improved in any manner by adding material or substance so as to present a surface other than the original earth surface.

Intersection shall mean:

- (1) The area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.
- (2) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of any such highways shall be regarded as a separate intersection.

Laned roadway shall mean a roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic.

Live load shall mean the weight of the cargo of a commercial vehicle, in addition to that of the chassis and body of the vehicle.

Motor vehicle shall mean any self-propelled vehicle not operated exclusively upon tracks, except farm tractors and motorized bicycles.

Motorcycle shall mean every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor.

Motorized bicycle shall mean any two-wheeled or three-wheeled device having fully operative pedals capable of propulsion by human power, an automatic transmission and a motor with a cylinder capacity of not more than fifty (50) cubic centimeters, which produces less than two (2) gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty (30) miles per hour on level ground.

Official time standard. Whenever certain hours are named herein, they shall mean standard time or daylight-saving time as may be in current use in the city.

Official traffic-control devices shall mean all signs, signals, markings and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

One-way street shall mean a street where vehicles are required to move in one (1) direction only.

Operator shall mean any person who is in actual physical control of a vehicle.

Park or *parking* shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

Passenger curb loading zone shall mean a place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

Pedestrian shall mean any person afoot.

Pneumatic tires shall mean tires of rubber or other substance and fabric, inflated with air.

Police officer shall mean every officer of the city police department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

Private road or driveway shall mean every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

Railroad shall mean a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

Railroad train shall mean a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.

Residence district shall mean the territory contiguous to and including a highway not comprising a business district when the property on any such highway for a distance of three hundred (300) feet or more is in the main improved with residences or residences and buildings in use for business.

Right-of-way shall mean the right of a vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

Roadway shall mean that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two (2) or more separate roadways, the term "roadway" shall refer to any such roadway separately but not to all such roadways collectively.

Safety zone shall mean the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

School zone shall mean a space in any street lawfully designated by ordinance for the safety of persons going to and returning from public, private or parochial schools.

Sidewalk shall mean that portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.

Solid tires shall mean tires of rubber or other resilient material, other than pneumatic tires.

Stand or standing shall mean the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

State highway shall mean a highway maintained by this state as a part of the state highway system.

Stop, when required, shall mean complete cessation from movement.

Stop or stopping, when prohibited, shall mean any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

Street or highway shall mean every way or place open for vehicular travel by the public and regardless of whether it has been legally established by constituted authority or used for the statutory period of time as a public highway.

Taxicab shall mean a motor vehicle other than a motor bus or service car offered for or engaged in carrying passengers for hire.

Through highway shall mean every highway or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on any such through highway in obedience to either a stop sign or a yield sign, when any such signs are erected as provided in this chapter.

Tractor shall mean any motor vehicle designed primarily for agricultural use or used as a traveling power plant or for drawing other vehicles or farm or road-building implements and having no provision for carrying loads independently.

Traffic shall mean pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances

Traffic-control signal shall mean any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and proceed.

Traffic division shall mean the traffic division of the police department of the city.

Trailer shall mean any vehicle without motive power designed for carrying passengers or property on its own structure for being drawn by any vehicle, except those running exclusively on tracks, including a semitrailer or vehicle of the trailer type, so designed and used in connection with any vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle.

Truck shall mean any vehicle, machine, tractor, trailer or semitrailer, or any combination thereof, propelled or drawn by mechanical power and designed or used in the transportation of property upon the highways.

Vehicle shall mean every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting motorized bicycles and devices moved by human power or used exclusively upon stationary rails or tracks.

(Code 1974, §§ 42.01, 42.92.1; Ord. No. 93-2639, § 1, 6-22-93)

State Law reference— Similar definitions, RSMo 300.010, 304.044(1), (2), 307.180.

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 44-2. - Applicability of chapter to public employees.

The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the United States government, this state, county or city, and it shall be unlawful for any such driver to violate any of the provisions of this chapter, except as otherwise permitted in this chapter.

(Code 1973, § 42.07)

State Law reference— Similar provisions, RSMo 300.095.

Sec. 44-3. - Applicability of chapter to persons riding bicycles or animals, propelling pushcarts.

Every person propelling any pushcart or riding a bicycle or an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which by their very nature can have no application.

(Code 1973, § 42.08)

State Law reference— Similar provisions, RSMo 300.085.

Sec. 44-4. - Obedience to police and fire department officials.

No person shall wilfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official.

Cross reference— Fire department, § 17-16 et seq.; police department, § 33-16 et seq.

State Law reference— Similar provisions, RSMo 300.080.

Sec. 44-5. - Trucking

- (a) The use of all streets within the city, except such as are set out in section 44-501, are hereby restricted to passenger-type automobiles only, and all truck-type vehicles are prohibited from using such streets, except when making local deliveries within the city.
- (b) This section does not prohibit the use of all city streets by school buses and other buses traveling over streets of the city, approved for use as bus routes by the council.

(Code 1973, § 42.85)

State Law reference— Similar provisions, RSMo 300.550.

Sec. 44-6. - Use of toy vehicles.

No person upon roller skates, or riding in or by means of any coaster, toy vehicle or similar device, shall go upon any roadway except while crossing a street on a crosswalk and, when so crossing, that person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians; provided, however, that this section shall not apply upon any street while set aside as a play street as authorized by this chapter or other ordinances of the city.

(Code 1973, § 42.51)

State Law reference— Similar provisions, RSMo 300.090.

Sec. 44-7. - Play streets.

- (a) The city traffic engineer shall have the authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same.
- (b) Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within any such closed area, and then any such driver shall exercise the greatest care in driving upon any such street or portion thereof.

Cross reference— Streets, sidewalks, and other public places, Ch. 40.

State Law reference— Similar provisions, RSMo 300.185, 300.190.

Sec. 44-8. - Clinging to vehicles.

No person riding upon any bicycle, motorized bicycle, coaster, roller states, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway.

(Code 1973, § 42.49)

State Law reference— Similar provisions, RSMo 300.350.

Sec. 44-9. - Riding on parts of vehicle not intended for passengers.

It shall be unlawful for any person to ride on any vehicle upon any portion thereof not designed or intended for the use of passengers when the vehicle is in motion. This section shall not apply to an employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise.

(Code 1973, § 42.47)

Sec. 44-10. - Opening vehicle door.

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

State Law reference— Similar provisions, RSMo 300.340.

Sec. 44-11. - Boarding or alighting from moving vehicles.

It shall be unlawful for any person to board or alight from any vehicle while such vehicle is in motion.

(Code 1973, § 42.46)

Sec. 44-12. - Loads which might become dislodged to be secured.

Every motor vehicle operating upon the streets of the city and carrying goods or material or farm products which may reasonably be expected to become dislodged and fall therefrom as a result of wind pressure or air pressure or by the movement thereof shall have a protective cover or be sufficiently secured so that no portion of any such goods or material can become dislodged and fall therefrom while being transported or carried.

State Law reference— Similar provisions, RSMo 307.010(1).

Sec. 44-13. - Obstruction to driver's view or control.

- (a) It shall be unlawful for the driver of any vehicle to drive the same when such vehicle is so loaded, or when there are in the front seat of such vehicle such number of persons, as to obstruct the view of the operator to the front or sides, or to interfere with the driver's control over the driving mechanism of the vehicle.
- (b) It shall be unlawful for any passenger in a vehicle to ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with the driver's control over the driving mechanism of the vehicle.

(Code 1973, § 42.48)

Sec. 44-14. - Placing injurious substances in street.

- (a) It shall be unlawful for any person to throw or place on or upon any street of the city any tacks, nails, wires, scrap metal, glass, crockery, sharp stones or other substances injurious to the feet of persons or animals or to the tires or wheels of vehicles.
- (b) Any person who has purposely, accidentally or by reason of an accident dropped from his person or any vehicle any tacks, nails, wire, scrap, metal, glass, crockery, sharp stones or other substances injurious to the feet of persons or animals, or to the tires or wheels of vehicles, including motor vehicles, upon any street shall immediately make all reasonable efforts to clear the street of the substances.

Cross reference— Streets, sidewalks and other public places, Ch. 40.

State Law reference— Similar provisions, RSMo 304.160.

Sec. 44-15. - Penalties.

Whenever any act is prohibited or is declared to be unlawful or an offense or misdemeanor, or the doing of any act as required, or the failure to do any act, is declared to be unlawful or an offense or a misdemeanor in this chapter, upon conviction of a violation of such provisions of this chapter, the violator

shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment in the city jail not exceeding three (3) months, or by both such fine and imprisonment.

(Ord. No. 95-2805, § 1, 11-28-95)

Secs. 44-16—44-30. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT^[2]

Footnotes:

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Cross reference— *Administration generally, Ch. 2.*

DIVISION 1. - GENERALLY

Sec. 44-31. - Traffic commission.

- (a) *Established.* There is hereby established a traffic commission which shall consist of seven (7) members, one (1) of whom shall be elected as chairman annually in June.
- (b) *Members; terms.* The council shall appoint members of the traffic commission for staggered terms of three (3) years. Vacancies on the commission shall be filled by the council by appointment for the unexpired term of the member vacating the office. Members shall be residents of the city and shall hold no other office in the city government. The municipal judge and the city prosecutor (assistant city attorney) shall be ex officio members of the traffic commission with the right to discuss and suggest matters before the traffic commission, but with no right to make motions or to vote on any matter before the traffic commission.
- (c) *Duties.* The traffic commission shall act in an advisory capacity to the council and the city manager. The traffic commission shall:
 - (1) Advise the council and the city manager on problems concerning traffic and parking;
 - (2) Carry on educational activities in traffic matters;
 - (3) Supervise the preparation of traffic reports;
 - (4) Receive complaints having to do with traffic matters;
 - (5) Recommend to the council and the city manager ways and means for improving traffic conditions and the administration and enforcement of traffic regulations;
 - (6) Initiate a long-range master traffic improvement plan;
 - (7) Perform such other duties with reference to traffic and parking, not inconsistent with the charter of the city, as the council may request;
 - (8) Employ such assistants and technical advisors as it may consider necessary, within the limits of its budget appropriation;
 - (9) Meet upon call of the mayor.

(Code 1973, § 42.04; Ord. No. 87-2234, § 1, 11-10-87; Ord. No. 97-2958, § 1, 11-10-97)

Cross reference— Boards, commissions and committees, § 2-381 et seq.

State Law reference— Similar provisions, RSMo 300.070.

Sec. 44-32. - City traffic engineer.

- (a) The office of city traffic engineer is hereby established. The city traffic engineer shall exercise the powers and duties with respect to traffic as provided in this chapter

- (b) The city traffic engineer shall determine the installation and proper timing and maintenance of traffic-control devices, conduct engineering analyses of traffic accidents and devise remedial measures, conduct engineering investigations of traffic conditions, plan the operation of traffic on the streets and highways of the city, and cooperate with other city officials in the development of ways and means to improve traffic conditions, and carry out the additional powers and duties imposed by ordinances of the city.

Cross reference— Officers and employees generally, § 2-46 et seq.

State Law reference— Similar provisions, RSMo 300.060.

Sec. 44-33. - Enforcement of traffic laws.

It shall be the duty of the officers of the police department, or such officers as are assigned by the police chief, to enforce the provisions of this chapter and other traffic ordinances of the city and all of the state vehicle laws applicable to street traffic in the city.

State Law reference— Similar provisions, RSMo 300.075(1).

Sec. 44-34. - Directing of traffic by police and fire department officials.

- (a) Officers of the police department, or such officers as are assigned by the police chief, are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws; provided, however, that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.
- (b) Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

(Code 1973, § 42.05)

Cross reference— Fire department, § 17-16 et seq.; police department, § 33-16 et seq.

State Law reference— Similar provisions, RSMo 300.075(2), (3).

Sec. 44-35. - Forms and records of traffic citations and arrests.

- (a) The city shall provide books containing uniform traffic tickets as prescribed by supreme court rule no. 37.46. These books shall include serially numbered sets of citations in quadruplicate in the form prescribed by supreme court rule.
- (b) Ticket books shall be issued to the chief of police or his duly authorized agent, a record shall be maintained of every book so issued and a written receipt shall be required for every book. The judge or judges hearing municipal ordinance violation cases may require that a copy of any such record and receipts be filed with the court.
- (c) The chief of police shall be responsible for the issuance of ticket books to individual members of the police department. The chief of police shall require a written receipt for every book so issued and shall maintain a record of every such book and each set of citations contained therein.

(Code 1973, § 42.88)

State Law reference— Similar provisions, RSMo 300.575.

Sec. 44-36. - When tickets are to be issued.

Except when authorized or directed under state law to immediately take a person before the municipal judge for the violation of any traffic laws, a police officer who halts a person for any such violation other than for the purpose of giving him a warning or warning notice and who does not take the person into custody under arrest, shall issue to him a uniform traffic ticket which shall be proceeded upon in accordance with supreme court rule no. 37.

State Law reference— Similar provisions, RSMo 300.580.

Sec. 44-37. - Issuance of tickets for nonmoving violations; action on failure of violator to appear.

- (a) Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the provisions of this chapter or state law, the police officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to the vehicle a uniform traffic ticket for the driver to answer to the charge against him within five (5) days during the hours and at a place specified in the traffic ticket.
- (b) If a violator of the provisions of this chapter relative to stopping, standing or parking under the traffic laws or ordinances does not appear in response to a uniform traffic ticket affixed to any such motor vehicle within a period of five (5) days, the police department shall send to the owner of the motor vehicle to which the traffic ticket was affixed a letter informing him of the violation and warning him that if the letter is disregarded for a period of five (5) days a warrant of arrest will be issued.

(Code 1973, § 42.90)

State Law reference— Similar provisions, RSMo 300.585, 300.590.

Secs. 44-38, 44-39. - Reserved.

Sec. 44-40. - Records of traffic violations.

- (a) The police department shall keep a record of all violations of the traffic ordinances of the city or of the state vehicle laws of which any person has been charged, together with a record of the final disposition of all such alleged offenses. This record shall be so maintained as to show all types of violations and the total of each. The record shall accumulate during at least a five-year period and from that time on the record shall be maintained complete for at least the most recent five-year period.
- (b) All forms for records of violations and notices of violations shall be serially numbered. For each month and year a written record shall be kept available to the public showing the disposal of all such forms.
- (c) All such records and reports shall be public records.

State Law reference— Similar provisions, RSMo 300.025.

Sec. 44-41. - Driver files to be maintained.

The police department shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions and complaints reported for each driver, which shall be filed alphabetically under the name of the driver concerned.

State Law reference— Similar provisions, RSMo 300.045.

Sec. 44-42. - Annual traffic safety report.

The police department shall annually prepare a traffic report which shall be filed with the mayor. The report shall contain information on traffic matters in the city as follows:

- (1) The number of traffic accidents, the number of persons killed, the number of persons injured, and other pertinent traffic accident data;
- (2) The number of traffic accidents investigated and other pertinent data on the safety activities of the police; and
- (3) The plans and recommendations of the division for future traffic safety activities.

State Law reference— Similar provisions, RSMo 300.050.

Sec. 44-43. - Emergency and experimental regulations.

The police chief, by and with the approval of the traffic commission, is hereby empowered to make regulations necessary to make effective the provisions of the traffic ordinances of the city and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than ninety (90) days.

(Code 1973, § 42.06)

State Law reference— Similar provisions, RSMo 300.065.

Sec. 44-44. - Designation, maintenance of crosswalks.

The city traffic engineer, with the consent of the council, is hereby authorized to designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where in his opinion there is a particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary.

(Code 1973, § 42.14(a); Ord. No. 85-2114, § 1, 11-26-85)

State Law reference— Similar provisions, RSMo 300.195(1).

Sec. 44-45. - Establishment of safety zones.

The city traffic engineer is hereby authorized to establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians.

(Code 1973, § 42.14(b))

State Law reference— Similar provisions, RSMo 300.195(2).

Sec. 44-46. - Marking of traffic lanes; observance.

The city traffic engineer is hereby authorized to mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary. Where any such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

(Code 1973, § 42.14(c))

State Law reference— Similar provisions, RSMo 300.200.

Sec. 44-47. - Closing and reopening streets to public use.

- (a) *Temporary closing of streets.* The city traffic engineer and/or the director of public works may withdraw temporarily from public use any public street or alley when necessary for the proper control of traffic, or upon which public work or improvement, repair, or reconstruction is in progress, and for each

period as he deems necessary for the benefit of such work and, for that purpose, to cause such street, alley, or highway to be barred to travel by the public and placarded as "closed." No person shall drive a vehicle or animal on any such street placarded as closed, or remove or disturb any barrier, sign, or warning lights thereon.

(b) *Permanent closing of streets.* Public streets may be closed by the following procedure:

- (1) If a written request for closure of a public street is received by the director of public works, the request shall be referred to the traffic commission for consideration.
- (2) The traffic commission shall, prior to making its determination with respect to the petition, permit any interested party an opportunity to appear at a meeting before the commission and be heard. Notice of the traffic commission's meeting shall be provided by regular mail to affected school districts, trash service providers and ambulance service companies. Notice of the meeting shall also be provided to city staff, the police department and fire department. Residents and/or property owners on the street proposed to be closed shall also be notified by regular mail. At the conclusion of the meeting, the traffic commission shall take a vote on the closure and, based upon that vote, shall make a recommendation to the city council and forward that recommendation together with the entire file, including exhibits and reports, to the city council.
- (3) The city council then may take whatever action is deemed advisable by the council which may include the preparation of an ordinance to close an ordinance directing the street to be closed. Prior to voting on any ordinance to close any street, the city council shall provide for a public hearing to provide interested parties an opportunity to comment on the proposed closure. Affected school districts, trash service providers, ambulance service companies, and residents and property owners on the street proposed to be closed shall be notified by certified mail of the public hearing.

(c) *Reopening of streets.*

- (1) If a written request for reopening of a public street is received by the director of public works, the request shall be referred to the traffic commission for consideration.
- (2) The traffic commission shall, prior to making its determination with respect to the petition, permit any interested parties an opportunity to appear at a meeting before the commission and be heard. Notice of the traffic commission's [meeting] shall be provided by regular mail to affected school districts, trash service providers and ambulance service companies. Notice of the meeting shall also be provided to the city staff, the police department and fire department. Residents and/or property owners on the street proposed to be reopened shall be notified by regular mail. At the conclusion of the meeting, the traffic commission shall take a vote on the reopening and, based upon that vote, make a recommendation to the city council and forward that recommendation together with the entire file, including exhibits and reports to the city council.
- (3) The city council may then take whatever action is deemed advisable by the council which may include the preparation of an ordinance directing the street to be reopened. Prior to voting on any ordinance reopening the street, the city council shall provide for a public hearing on the reopening. Residents and/or property owners on the street to be reopened shall be notified by certified mail of the public hearing at least ten (10) days prior to the hearing.

(Ord. No. 97-2928, § 1, 7-15-97)

Cross reference— Streets, sidewalks and other public places, Ch. 40.

Sec. 44-48. - Impoundment, redemption, storage and sale of abandoned, stolen or lost property and motor vehicles.

(a) *Definitions.* The following terms when used in this section, shall mean:

Abandoned property. Any unattended motor vehicle, trailer, off-road vehicle, outboard motor, or vessel removed or subject to removal from public or private property as provided in this article, whether or not operational.

Freeway. A divided state highway with four (4) or more lanes, with no access to the throughways except the established interchanges and with no at-grade crossings.

Interstate highway. A state highway included in the national system of interstate highways located within the boundaries of the city, as officially designated or as may be hereafter designated by the Missouri Highway and Transportation Commission with the approval of the United States Secretary of Transportation, pursuant to Title 23, United States Code, as amended.

Off-road vehicle. Any vehicle designed for or capable of cross-county travel on or immediately over land, water, ice, snow, marsh, swampland, or other natural terrain without benefit of a road or trail, including, without limitation, the following:

- (1) Jeeps;
- (2) All-terrain vehicles;
- (3) Dune buggies;
- (4) Multiwheel drive or low-pressure tire vehicles;
- (5) Vehicle using an endless belt, or tread or treads, or a combination of tread and low pressure tires;
- (6) Motorcycles, trail bikes, minibikes, and related vehicles;
- (7) Any other means of transportation deriving power from any source other than muscle or wind; and excluding the following:
 - a. Registered motorboats;
 - b. Aircraft;
 - c. Any military, fire, or law enforcement vehicle;
 - d. Farm-type tractors and other self-propelled equipment for harvesting and transporting farm or forest products;
 - e. Any vehicle being used for farm purposes, earth moving, or construction while being used for such purposes on the work site;
 - f. Self-propelled lawnmowers, or lawn or garden tractors, or golf carts, while being used exclusively for their design purpose; and
 - g. Any vehicle being used for the purpose of transporting a handicapped person.

Right-of-way. The entire width of land between the boundary lines of a state highway, city street or alley, including any roadway.

Roadway. That improved portion of a state highway, city street or alley used for vehicular travel, exclusive of any berm or shoulder.

State highway. A highway constructed or maintained by the Missouri Highway and Transportation Commission with the aid of state or federal funds, or any highway included by authority of law in the state highway systems, including right-of-way.

Towing company. Any person or entity which tows, removes, or stores abandoned property.

(b) *Authority of police department; towing abandoned property on right-of-way and public lands.*

- (1) Any police officer within the officer's jurisdiction may authorize a towing company to remove to a place of safety:
 - a. Any abandoned property on the right-of-way of:
 1. Any interstate highway, freeway, or other state highway left unattended for more than ten (10) hours;
 2. Any other public street or alley left unattended for a period of forty-eight (48) hours or more and which has been tagged with an official forty-eight (48) hour notice by the police department when the abandoned property does not display a current vehicle license tag, or the abandoned property appears to be inoperable, dismantled, or is in such a state of disrepair that it cannot be operated lawfully upon the streets, highways, boulevards, or waters of the city; provided that commercial motor vehicles not hauling waste designated as hazardous under 49 U.S.C. 95103(a) may only be removed under this article to a place of safety until the owner(s) representative has had a reasonable opportunity to contact a towing company of choice;
 3. Any unattended abandoned property illegally left standing upon any highway, street, alley, or bridge if the abandoned property is left in a position or under such circumstances as to obstruct the normal movement of traffic where there is no reasonable indication that the person in control of the property is arranging for its immediate control or removal;
 - b. Any abandoned property which has been abandoned under RSMo 577.030;
 - c. Any abandoned property which has been reported or taken without consent of the owner;
 - d. Any abandoned property for which the person operating such property is arrested for an alleged offense for which the officer is required to take the person into custody and where such person is unable to arrange for the property's timely removal;
 - e. Any abandoned property which due to any other state law or city ordinance is subject to towing because of the owner's outstanding traffic or parking violations;
 - f. Any abandoned property left unattended in violation of a state law or city ordinance where signs have been posted giving notice of the law or where the violation causes a safety hazard; or
 - g. Any abandoned property illegally left standing on the waters of the city and state, as defined in RSMo 306.010, where the abandoned property is obstructing the normal movement of traffic, or where the abandoned property has been unattended for more than ten (10) hours, or is floating loose on the water.
- (2) Neither the police officer nor anyone having custody of abandoned property under his direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this article other than damages occasioned by negligence or by willful or wanton acts or omissions.

- (3) The owner of abandoned property removed as provided in this article shall be responsible for payment of all reasonable charges for towing and storage of such abandoned property as provided in subsection (7) of this section (b).
- (4) Upon the towing of any abandoned property under this article, the police department shall make an inquiry with the National Crime Information Center and any statewide law enforcement computer system to determine if the abandoned property has been reported as stolen and shall enter the information pertaining to the towed property into the statewide law enforcement computer system. The police department shall submit a crime inquiry and inspection report to the Missouri Department of Revenue, on any unclaimed abandoned property, within ten (10) working days of the towing of the abandoned property. The crime inquiry and inspection report shall include the following:
- a. The year, model, make and property identification number of the abandoned property;
 - b. A description of any damage to the property noted by the police officer;
 - c. The license plate or registration number and the state of issuance, if available;
 - d. The storage location of the towed abandoned property;
 - e. The name, telephone number and address of the towing company;
 - f. The date, place and reason for towing of the abandoned property;
 - g. The date of the inquiry of the National Crime Information Center, any statewide law enforcement computer system and any other similar system which has titling and registration information to determine if the abandoned property had been stolen;
 - h. The signature and printed name of the police officer and the towing company; and
 - i. Any additional information the Missouri Department of Revenue deems appropriate.
- (5) The police department shall utilize any uniform "Authorization to Tow" form provided by the Missouri Department of Revenue. The completed form shall be issued by the authorizing police officer to the tow company for that company's records as proof of authorization to tow particular abandoned property. One copy of the crime inquiry and inspection report shall remain with the police department. One copy shall be provided to and retained by the towing company in an accessible format in its business records for a period of three (3) years from the date of the tow or removal.
- (6) The owner of towed abandoned property, or the holder of a valid security interest of record, may reclaim it from the towing company upon proof of ownership or valid security interest of record and payment of all reasonable charges for the towing and storage of the abandoned property, including charges imposed by the City of Ferguson.
- (7) Any towing company who removes abandoned property at the direction of a police officer as provided in this article shall have a lien for all reasonable charges for the towing and storage of the abandoned property until possession of the abandoned property is voluntarily relinquished to the owner of the abandoned property or to the holder of a valid security interest of record. Such lien shall be enforced in the manner described in RSMo 304.156.
- (8) Towing companies shall keep a record for three (3) years on any abandoned property towed and not reclaimed by the owner of the abandoned property. Such record shall contain a copy of the police officer's authorization to tow, copies of all correspondence with Missouri Department of Revenue concerning the abandoned property, and information concerning the final disposition of the possession of the abandoned property.

- (9) Any personal property within the towed abandoned property need not be released to the owner thereof until the reasonable or agreed charges for such recovery, transportation or safekeeping of the abandoned property have been paid or satisfactory arrangements for payment have been made, except that any medication prescribed by a physician shall be released to the owner thereof upon request. The towing company or police officer holding or storing the property shall either release the personal property to the owner of the abandoned property or allow the owner to inspect the property and provide an itemized receipt for the contents. The towing company holding or storing the personal property shall be strictly liable for the condition and safe return of the property. Stolen, unidentified or impounded personal property, other than the abandoned property, which is removed or caused to be removed by the police department shall be stored at the law enforcement center, unless because of its size, nature or condition it should reasonably be stored elsewhere. Such personal property may be subject to the actual cost of removal and administrative and storage fees, provided that the storage fee for such unclaimed personal property shall not be less than one dollar (\$1.00) per day of storage.

(c) *Authority of police department; towing abandoned property on private lands.*

- (1) If a person abandons property on any real property owned by another without the consent of the owner or person in possession of the property, at the request of the person in possession of the real property, any police officer within the officer's jurisdiction may authorize a towing company to remove such abandoned property in the following circumstances:
- a. The abandoned property is left unattended for more than forty-eight (48) hours; or
 - b. In the judgment of the police officer, the abandoned property constitutes a safety hazard or unreasonably interferes with the use of the real property by the person in possession.
 - c. The owner of real property, or lessee in lawful possession of the real property, may authorize a towing company to remove abandoned property without authorization by a law enforcement officer only when the owner, lessee, or agent of the real property is present and only under any of the following circumstances:
 1. There is displayed, in plain view at all entrances to the property, a sign not less than seventeen by twenty-two inches (17"×22") in size, with lettering not less than one (1) inch in height, prohibiting public parking and indicating that unauthorized abandoned property will be removed at the owner's expense, disclosing the maximum fee for all charges related to towing and storage, and containing the telephone number of the local traffic enforcement agency where information can be obtained;
 2. The abandoned property is on private property and lacks an engine, transmission, wheels, tires, doors, windshield, or any other major part or equipment necessary to operate safely on the highways, the owner or lessee of the private property has notified the city police, and ninety-six (96) hours have elapsed since that notification; or
 3. The abandoned property is left unattended on private property and the owner or lessee of the private property and the owner, lessee, or agent of the real property in lawful possession of the real property has notified the city police and ten (10) days have elapsed since that notification.
 4. Pursuant to this section, any owner or lessee in lawful possession of real property that requests a towing company to tow abandoned property without authorization from a law enforcement officer shall, within one (1) hour of the tow, file an abandoned property report with the appropriate law enforcement agency where the property is located. The

report shall contain the year, model, make, and abandoned property identification number of the property; a description of any damage to the property noted by the owner or lessee in possession of the real property; the license plate or registration number, and state of issuance, if available; the physical location of the property and the reason for requesting the property to be towed; date the report is completed; the signature and printed name of the owner or lessee in possession of the real property, and the name of the law enforcement agency notified of the abandoned property.

- (2) Neither the police officer or anyone having custody of abandoned property under his or her direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this section other than damages occasioned by negligence or by willful or wanton acts or omissions.
- (3) When the owner of real property or a lessee in lawful possession of the real property authorizes a towing company to remove abandoned property without the authorization of a police officer, pursuant to RSMo 304.157, and a towing company submits an abandoned property report to the police department, the police department must record the date the abandoned property report was filed with the department and within five (5) days of such filing make an inquiry into the National Crime Information Center and any statewide law enforcement computer system to determine if the abandoned property has been reported as stolen. The police department shall enter the information pertaining to the towed abandoned property into the statewide law enforcement computer system.
- (4) Disposition of towed abandoned property.
 - a. Upon causing the removal of any abandoned property under this article, if the police department knows the registered owner or lienholder of the abandoned property, it shall within five (5) working days give notice in writing to the registered owner and any lienholder of the fact of the removal, the grounds for the removal, and indicate the place to which the property has been removed. If the abandoned property is stored with a tow company, a copy of the notice shall be given to the tow company. The notice provided for in this subsection shall include the amount of mileage, if available, shown on the abandoned property at the time of the removal.
 - b. A tow company storage facility where abandoned property is stored pursuant to this article shall accept cash or a valid bank credit card for payment of towing and storage by a registered owner or owner's agent claiming the abandoned property, except where the tow and impoundment of the abandoned property was the result of an arrest or accident whereby the towing company may then demand payment in the form of cash. A tow company who refuses to accept a valid bank credit card permit pursuant to this subsection is liable to the registered owner of the abandoned property for four (4) times the amount of the towing and storage charges, but not to exceed five hundred dollars (\$500.00), as provided by RSMo 304.158.7. In addition, persons operating or in charge of a tow company storage facility shall have sufficient moneys on the premises to accommodate, and make change, in a reasonable monetary transaction.
 1. A towing company shall not remove or commence the removal of abandoned property from private property without first obtaining written authorization from the property owner. All written authorization shall be maintained for at least one (1) year by the towing company. General authorization to remove or commence removal of abandoned

company or its affiliates except in the case of abandoned property unlawfully parked within fifteen (15) feet of a fire hydrant or a fire lane designated by a fire department or the state fire marshal.

2. Any towing company, or an affiliate of a towing company, which removes or commences removal of abandoned property from private property without first obtaining written authorization from the property owner or lessee or an employee or agent thereof who is present at the time of removal or commencement of the removal, except as permitted in subsection (a) of this section, is liable to the owner of the property for four (4) times the amount of towing and storage charges, in addition to any applicable criminal penalty, for a violation of this section.
- c. Any towing company which comes into possession of abandoned property pursuant to this article and who claims a lien for recovering, towing, or storing abandoned property shall give notice to the title owner and to all persons claiming a lien thereon, as disclosed by the records of the Missouri Department of Revenue or of a corresponding agency in any other state. The towing company shall notify the owner and/or lienholders(s) within ten (10) business days of the date of mailing indicated on the Missouri Department of Revenue notice to the towing company of the names and addresses of the owner and/or lienholder(s) ascertained. The notice shall contain the following:
 1. The name, address and telephone number of the tow company storage facility;
 2. The date, reason, and place from which the abandoned property was removed;
 3. A statement that the amount of the accrued towing, storage, and administrative costs are the responsibility of the owner, and that storage and/or administrative costs will continue to accrue as a legal liability of the owner until the abandoned property is redeemed;
 4. A statement that the tow company claims a possessory lien for all such charges;
 5. A statement that the owner or holder of a valid security interest of record may retake possession of the abandoned property at any time during business hours by proving ownership or rights to a secured interest and paying all towing and storage charges;
 6. A statement that, should the owner or holder of a valid security interest consider that the towing or removal was improper or not legally justified, the owner has a right to request a hearing as provided in subsection (6) of this section to contest the property of such towing or removal;
 7. A statement that, if the abandoned property remains unclaimed for thirty (30) days from the date of mailing the notice, title to the abandoned property will be transferred to the person or firm in possession of the abandoned property free of all prior liens; and
 8. A statement that any charges in excess of the abandoned property at the time of such transfer shall remain a liability of the owner.

A towing company may assess storage charges for abandoned property only for the time in which it complies with the procedural requirements of this article.

- d. In the event that the records of the Missouri Department of Revenue fail to disclose the name of the owner or any lienholder of record for the abandoned property, upon notification by the Department of Revenue to the towing company of such failure, the towing company shall attempt to locate the documents or other evidence of ownership on or within the abandoned

property itself. The towing company must certify that a physical search of the abandoned property disclosed no ownership documents and that a good faith effort was made. For purpose of this subsection, "good faith effort" means that the following checks have been performed by the tow company to establish the prior state of registration and title:

1. Check of the abandoned property for any type of license plates, license plate record, temporary permit, inspection sticker, decal, or other evidence which may indicate a state of possible registration and title;
2. Check the police report for a license plate number or registration number if the abandoned property was towed at the request of a police officer;
3. Check the tow ticket/report of the tow company operator to see if a license plate was on the abandoned property at the beginning of the tow, if a private tow; and
4. If there is no address of the owner on the impound report, check the police report to see if an out-of-state address is indicated on the driver license information.

If no ownership information is discovered, the Missouri Department of Revenue shall be notified in writing by the tow company. Title may then be obtained in accordance with RSMo 304.156, and subsection (5) of this section.

- e. Thirty (30) days after the notification form has been mailed by the towing company to the abandoned property owner and any holder(s) of a security agreement and the property is unredeemed and no satisfactory arrangement has been made with the lienholder in possession for continued storage, and the owner or any holder of a security agreement has not requested a hearing as provided in subsection (6) of this section, the lienholder in possession may apply to the Missouri Department of Revenue for a salvage certificate of title designated with the words "salvage/abandoned property" or junking certificate based on the condition of the abandoned property as stated in the abandoned property report or crime inquiry and inspection report. The application for title shall be accompanied by:

1. An affidavit from the lienholder in possession that he has been in possession of the abandoned property for at least thirty (30) days and the owner of the abandoned property or any holder of a security agreement has not made arrangements for payments of towing and storage charges;
2. An affidavit that the lienholder in possession has not been notified of any application for hearing as provided in subsection (6) of this section;
3. A copy of the abandoned property report or crime inquiry and inspection report;
4. A copy of the thirty-day notice given by certified mail to any owner and person holding a valid security interest and a copy of the certified mail receipt, indicating that the owner and/or lienholder(s) of record received notice as required in this section.

If notice to the owner and/or holder of a security agreement has been returned marked "not forwardable" or "addressee unknown," the lienholder in possession shall comply with subsection (4) of this section.

- f. The owner of abandoned property removed pursuant to the provisions of this article or any person claiming a lien, other than the towing company, within ten (10) days after the receipt of notification from the towing company pursuant to subsection (3) of this section may file a

petition in the Associate Division of the St. Louis County Circuit Court to determine if the abandoned property was wrongfully taken or withheld from the owner, as provided in RSMo 304.156.5.

1. Redemption of abandoned property. The owner of abandoned property removed as provided in this article shall be responsible for the payment of all reasonable charges for towing and storage of such abandoned property. Upon presentation of a written application, including proof of ownership, and a receipt from the towing company showing all claims satisfied against the abandoned property, the police department shall authorize the release of the abandoned property to the owner, except where the abandoned property is held pursuant to another law.

(Ord. No. 96-2876, § 1, 11-26-96; Ord. No. 2009-3381, § 1, 2-24-09)

State Law reference— Similar provisions, RSMo 300.595.

Sec. 44-49. - Designation of businesses to tow and store inoperable vehicles.

- (a) The police chief is hereby authorized to designate one (1) or more, but not exceeding three (3), public garages or filling stations in the city to which vehicles can be towed and temporarily stored because they are inoperable by reason of accidental damage from collision on the public or private streets of the city. The city shall not be responsible for the towing or storage of such vehicles.
- (b) The police chief shall select only those garages or filling stations which provide a twenty-four-hour towing service. Only those vehicles ordered towed by the police department shall be so stored on the premises of the garage or filling station, and the police department shall identify each such vehicle ordered towed and stored. Vehicles ordered to be towed shall not be stored for more than twenty (20) days including the day the vehicle was towed and stored, unless approval for an extension is granted by the director of public works.
- (c) Before designating any garage or filling station to tow and store such inoperative vehicles, the police chief shall submit the name or names of such garage or filling station to the director of public works, who shall inspect the property to determine the availability and adequacy of storage space. The director shall determine the maximum number of vehicles that can be stored. The director may require adequate screening of a storage area adjacent to residential property, if the screening provided is not deemed adequate.
- (d) The right to tow and store disabled vehicles confers no greater rights upon such garage or filling station so designated with respect to storage of other vehicles or his or its rights to perform services other than permitted under the zoning ordinance and the special permit under which such garage or filling station may be operating, except as authorized by this section.
- (e) The individual owner of a vehicle to be towed shall have the option of designating his own towing service.

(Code 1973, § 10.16)

Sec. 44-50. - Reserved.

Editor's note— Ord. No. 2014-3563, § 1, adopted Sept. 23, 2014, repealed § 44-50 which pertained to fees related to towing imposed by the city and derived from Ord. No. 2009-3381, § 2, adopted Feb. 24, 2009.

Secs. 44-51—44-65. - Reserved.

DIVISION 2. - FINANCIAL RESPONSIBILITY

Sec. 44-66. - Financial responsibility required in operation of motor vehicles.

- (a) No person shall operate a motor vehicle registered in this state, whether owned by such operator or by another, upon the streets, alleys, or highways of this city, unless such operator, or the owner of the vehicle, maintains financial responsibility which covers the operation of that vehicle by such operator.
- (b) No person shall operate a motor vehicle registered in this state, whether owned by such operator or by another, upon the streets, alleys, or highways of this city unless such operator exhibits proof of financial responsibility upon demand of a police officer, which proof covers the operation of that vehicle by such operator.
- (c) For purposes of this section, the term "financial responsibility" shall mean the ability to respond in damages for liability occurring after the effective date of proof of such financial responsibility arising out of the ownership, maintenance, or use of a motor vehicle in the amount of twenty-five thousand dollars (\$25,000.00) because of bodily injury to or death of one (1) person in any one (1) accident, and subject to said limit for one (1) person, in the amount of fifty thousand dollars (\$50,000.00) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of ten thousand dollars (\$10,000.00) because of injury to or destruction of property of others in any one (1) accident.
- (d) Proof of financial responsibility may be shown by any of the following:
 - (1) An insurance identification card issued by a motor vehicle insurer, or by the Director of Revenue of the State of Missouri for self insurance, as provided by RSMo 303.024. A motor vehicle insurance policy, a motor vehicle liability insurance binder, or receipt which contains the name and address of the insurer, the name and address of the named insured, the policy number, the effective dates of the policy, and a description by year and make of the vehicle, or at least five (5) digits of the vehicle identification number, or the word "fleet" if the insurance policy covers five (5) or more vehicles, shall be satisfactory evidence of insurance in lieu of an insurance identification card.
 - (2) A certificate of the Treasurer of the State of Missouri of a cash deposit as provided by RSMo 303.240.
 - (3) A surety bond filed with the Director of Revenue of the State of Missouri as provided by RSMo 303.230.
- (e) Proof of financial responsibility shall be carried at all times in the insured motor vehicle, or by the operator of the motor vehicle if the proof of financial responsibility is effective as to the operator rather than to the vehicle. The operator of the motor vehicle shall exhibit the proof of financial responsibility on the demand of any police officer who lawfully stops such operator while that officer is engaged in the performance of the duties of his/her office.
- (f) No person shall alter a legitimate document evidencing the financial responsibility required and described in this section. No person shall produce, manufacture, sell or otherwise distribute a fraudulent, altered, or counterfeit document intended to serve as an insurance identification card or document. No person shall possess a fraudulent, altered or counterfeit document intended to serve as an insurance identification card or document.
- (g) Penalty. Any person who shall violate any provision of this section shall, upon conviction thereof, be deemed guilty and subject to punishment as described in section 1-15 of this Municipal Code.

(Ord. No. 93-2674, § 1, 11-9-93; Ord. No. 2012-3486, § 1, 3-27-12)

Secs. 44-67—44-80. - Reserved.

ARTICLE III. - OPERATION OF VEHICLES

DIVISION 1. - GENERALLY

Sec. 44-81. - License required.

- (a) It shall be unlawful for any person to drive any motor vehicle or motorized bicycle in the city unless such person shall have a driver's license or chauffeur's license as required by state law, and shall have such license in possession at all times while so driving on the streets of the city.
- (b) It shall be unlawful for the owner of any motor vehicle or motorized bicycle to permit any person to drive such vehicle on the streets of the city unless such driver shall have a driver's license or chauffeur's license as required by state law, and shall have such license in possession at all times while so driving on the streets of the city.
- (c) Failure to produce a driver's or chauffeur's license upon lawful demand shall give a police officer probable cause to arrest the driver for driving a motor vehicle or motorized bicycle on the streets of the city without a state driver's or chauffeur's license, as required under subsection (a) or (b) above.
- (d) Any person whose license and driving privilege as a resident or a nonresident has been canceled, suspended, or revoked under the laws of this state or the issuing state who drives any motor vehicle in the city while such license and privilege is canceled, suspended, or revoked and before an official reinstatement notice is issued or limited driving privileges granted by state officials, is guilty of a violation of an ordinance of this city.

(Code 1973, § 42.17; Ord. No. 2013-3512, § 1, 1-8-13)

State Law reference— Driver's and chauffeur's licenses, RSMo 302.010 et seq.; operator's or chauffeur's license required to operate motorized bicycle, RSMo 307.195(1).

Sec. 44-82. - Operation of motor vehicles by certain minors.

- (a) No person between the ages of sixteen (16) and eighteen (18) years who is qualified to obtain a license pursuant to RSMo Ch. 302 shall operate any motor vehicle in or upon the streets of the city unless such person has in his/her possession a valid current intermediate driver's license of the appropriate class in accordance with the laws of this state.
- (b) No person having an intermediate driver's license shall operate a motor vehicle in or upon the streets of the city between the hours of 1:00 a.m. and 5:00 a.m. unless accompanied by a licensed operator for the type of motor vehicle being operated who is actually occupying a seat beside the driver for the purpose of giving driving instruction and who is at least twenty-one (21) years of age; except such a licensee may operate a motor vehicle without being so accompanied if the travel is to or from a school or educational program or activity, a regular place of employment, or in emergency situations as defined by the state director of revenue by regulation.
- (c) No person having an intermediate driver's license shall operate a motor vehicle in or upon the streets of the city unless such driver and all passengers in the licensee's vehicle are wearing safety belts at all times. This safety belt restriction shall not apply to a person operating a motorcycle.

(Code 1973, § 42.18; Ord. No. 2013-3512, § 2, 1-8-13)

State Law reference— Similar provisions, RSMo 302.250, 577.110.

Sec. 44-83. - Vehicles to be driven carefully.

Every person operating a motor vehicle on the streets of this city shall operate or drive the same in a careful and prudent manner, and in the exercise of the highest degree of care, and at a rate of speed so as not to endanger the property of another, or the life or limb of any person, taking into consideration the time of day, the amount of vehicular and pedestrian traffic, the condition of the street or highway, the atmospheric conditions and the location with reference to intersecting streets or highways, curves, residences or schools.

(Code 1973, § 42.26(a))

State Law reference— Similar provisions, RSMo 304.012(1).

Sec. 44-84. - Operation of authorized emergency vehicles.

- (a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions stated in this section.
- (b) The driver of an authorized emergency vehicle may:
 - (1) Park or stand, irrespective of the provisions of this chapter;
 - (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
 - (3) Exceed the maximum speed limits so long as he does not endanger life or property;
 - (4) Disregard regulations governing direction of movement or turning in specified directions.
- (c) The exemptions granted in this section to an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle.
- (d) The provisions of this section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall these provisions protect the driver from the consequences of his reckless disregard for the safety of others.

(Code 1973, § 42.09(b)—(d))

State Law reference— Similar provisions, RSMo 300.100, 304.022, 307.175.

Sec. 44-85. - Drivers to drive to the right.

- (a) All vehicles not in motion shall be placed with their right side as near the right-hand side of the highway as practicable, except on streets of the city where vehicles are obliged to move in one (1) direction only or parking of motor vehicles is regulated by ordinance.
- (b) Upon all public roads or highways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:
 - (1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
 - (2) When placing a vehicle in position for and when such vehicle is lawfully making a left turn in compliance with the provisions of RSMo 304.014 to 304.025 or traffic regulations thereunder or of the city;
 - (3) When the right half of a roadway is closed to traffic while under construction or repair or

- (4) Upon a roadway designated as a one-way street and marked or signed for one-way traffic.
- (c) It is unlawful to drive any vehicle upon any highway or road which has been divided into two (2) or more roadways by means of a physical barrier or by means of a dividing section or delineated by curbs, lines or other markings on the roadway, except to the right of such barrier or dividing section, or to make any left turn or semicircular or U-turn on any such divided highway, except at an intersection or interchange or at any signed location designated by the state highways and transportation commission or the department of transportation. The provisions of this subsection shall not apply to emergency vehicles, law enforcement vehicles or to vehicles owned by the commission or the department.
- (d) The authorities in charge of any highway or the state highway patrol may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the highway, and all members of the state highway patrol and other peace officers may direct traffic in conformance with such signs. When authorized signs have been erected designating off-center traffic lanes, no person shall disobey the instructions given by such signs.
- (e) Whenever any roadway has been divided into three (3) or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply:
- (1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety;
 - (2) Upon a roadway which is divided into three (3) lanes a vehicle shall not be driven in the center lane, except when overtaking and passing another vehicle where the roadway ahead is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is sign-posted to give notice of such allocation;
 - (3) Upon all highways any vehicle proceeding at less than the normal speed of traffic thereon shall be driven in the right-hand lane for traffic or as close as practicable to the right-hand edge or curb, except as otherwise provided in RSMo 304.014 to 304.025;
 - (4) Official signs may be erected by the highways and transportation commission or the highway patrol may place temporary signs directing slow moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and drivers of vehicles shall obey the directions of every such sign;
 - (5) Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and except when a roadway has been divided into traffic lanes, each driver shall give to the other at least one-half of the main traveled portion of the roadway whenever possible.
- (f) All vehicles in motion upon a highway having two (2) or more lanes of traffic proceeding in the same direction shall be driven in the right hand lane except when overtaking and passing another vehicle or when preparing to make a proper left turn or when otherwise directed by traffic markings, signs or signals.
- (g) All trucks registered for a gross weight of more than forty- eight thousand pounds (48,000) shall not be driven in the far left-hand lane upon all interstate highways, freeways, or expressways within urbanized areas of the state having three (3) or more lanes of traffic proceeding in the same direction. This restriction shall not apply when:
- (1) It is necessary for the operator of the truck to follow traffic control devices that direct use of a

- (2) The right half of a roadway is closed to traffic while under construction or repair.
- (h) As used in subsection (g) of this section, "truck" means any vehicle, machine, tractor, trailer, or semitrailer, or any combination thereof, propelled or drawn by mechanical power and designed for or used in the transportation of property upon the highways. The term "truck" also includes a commercial motor vehicle as defined in RSMo 301.010.
- (i) Any driver who violates this section is guilty of an infraction and upon conviction may be punished by a fine not to exceed two hundred dollars (\$200.00) unless:
 - (1) Such violation causes an immediate threat of an accident, in which case such violation shall be deemed a misdemeanor and upon conviction may be punished by a fine not to exceed three hundred dollars (\$300.00) or by imprisonment not to exceed fifteen (15) days or by both such fine and imprisonment; or
 - (2) An accident results from such violation, in which case such violation shall be deemed a misdemeanor and upon conviction may be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment not to exceed ninety (90) days or by both such fine and imprisonment as provided in section 1-15 of this Code.

(Code 1973, § 42.19; Ord. No. 2009-3390, § 1, 4-21-09)

State Law reference— Similar provisions, RSMo 304.015.

Sec. 44-86. - Hand and mechanical signals.

- (a) No person shall stop or suddenly decrease the speed of or turn a vehicle from a direct course or move right or left upon a roadway unless and until such a movement can be made with reasonable safety and then only after the giving of an appropriate signal in the following manner:
 - (1) Any driver when stopping or when checking the speed of his vehicle, if the movement of other vehicles may reasonably be affected by any such checking of speed, shall extend his arm at an angle below horizontal so that the same may be seen in the rear of his vehicle.
 - (2) Any driver intending to turn his vehicle to the right shall extend his arm at an angle above horizontal so that the same may be seen in front of and in the rear of his vehicle, and shall slow down and approach the intersecting highway as near as practicable to the right side of the highway along which he is proceeding before turning.
 - (3) Any driver intending to turn his vehicle to the left shall extend his arm in a horizontal position so that the same may be seen in the rear of his vehicle, and shall slow down and approach the intersecting highway so that the left side of his vehicle shall be as near as practicable to the center line of the highway along which he is proceeding before turning.
- (b) The signals required by this section shall be given either by means of the hand and arm or by a signal light or signal device in good mechanical condition of a type approved by the state highway patrol; provided, however, that when a vehicle is so constructed or loaded that a hand and arm signal would not be visible both to the front and rear of the vehicle, then any such signals shall be given by light or device. A vehicle shall be considered so constructed or loaded that a hand and arm signal would not be visible both to the front and rear when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load exceeds twenty-four (24) inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereon exceeds fourteen (14) feet, which limit of fourteen (14) feet shall apply to single vehicles or combinations of vehicles. The provisions of this subsection shall not apply to any trailer which does not interfere with a clear view of the hand signals of the driver or of the signaling device upon the vehicle nulling the

trailer; provided further, that the provisions of this section, as far as mechanical devices on vehicles so constructed that a hand and arm signal would not be visible both to the front and rear of such vehicle as above provided, shall only be applicable to new vehicles registered within this state after the first day of January, 1954.

(Code 1973, § 42.25)

State Law reference— Similar provisions, RSMo 304.019.

Sec. 44-87. - Vehicles obstructing intersections, crosswalks.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

State Law reference— Similar provisions, RSMo 300.290.

Sec. 44-88. - Driving though safety zone prohibited.

No vehicle shall at any time be driven through or within a safety zone.

(Code 1973, § 42.55)

State Law reference— Similar provisions, RSMo 300.365.

Sec. 44-89. - Driving onto or from controlled-access roadways.

No person shall drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority.

State Law reference— Similar provisions, RSMo 300.355.

Sec. 44-90. - Driving vehicles on sidewalk.

The driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

(Code 1973, § 42.56)

Cross reference— Streets, sidewalks and other public places, Ch. 40.

State Law reference— Similar provisions, RSMo 300.330.

Sec. 44-91. - Riding on motorcycles.

A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one (1) person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the rear or side of the operator.

(Code 1973, § 42.50)

State Law reference— Similar provisions, RSMo 300.345(1).

Sec. 44-92. - Limitations on backing.

The driver of a vehicle shall not back the same unless such a movement can be made with reasonable safety and without interfering with other traffic.

(Code 1973, § 42.43)

State Law reference— Similar provisions, RSMo 300.335.

Sec. 44-93. - Following fire apparatus.

It shall be unlawful for the operator of any vehicle, other than one on official business, to follow closer than five hundred (500) feet any fire apparatus traveling in response to a fire alarm, or to drive into or stop any vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

(Code 1973, § 42.39)

Cross reference— Fire department, § 17-16 et seq.

State Law reference— Similar provisions, RSMo 300.300.

Sec. 44-94. - Crossing fire hose prohibited.

In order to prevent injury to fire hose when laid in or across a street or alley, every driver of any vehicle must drive around the hose and if that cannot be done, then such driver shall turn the vehicle around and proceed over some other street or alley.

(Code 1973, § 42.40)

Cross reference— Fire department generally, § 17-16 et seq.

State Law reference— Similar provisions, RSMo 300.305.

Sec. 44-95. - Crossing corner lot, driveway, or parking lot to avoid traffic devices prohibited.

No person shall drive a vehicle across a corner lot, a parking lot, or a driveway, whether publicly or privately owned, for the purpose of avoiding any traffic control device.

(Ord. No. 99-3036, § 1, 7-27-99)

Sec. 44-96. - Aggressive driving and transportation harassment prohibited.

It shall be unlawful for the operator of any motor vehicle intentionally to harass or alarm any person by intentionally or knowingly:

- (1) Increasing or decreasing the speed of his/her vehicle; or
- (2) Changing lanes; or
- (3) Following the other person's vehicle more closely than is reasonable and prudent under the totality of the circumstances; or
- (4) Impeding or obstructing the operation of the other person's vehicle; or
- (5) Operating his/her vehicle in a manner that endangers or would be likely to endanger any person or property; or
- (6) Throwing an object or directing a projectile at or in the direction of any person or property for the purpose of frightening, disturbing or injuring the person or damaging the property; or
- (7) Threatening any person for the purpose of frightening or disturbing that person; or

- (9) Engaging in conduct that creates a risk of death or serious physical injury to any person; or
- (10) Sounding a horn, shouting or otherwise directing sound toward any person for the purpose of frightening or disturbing that person.

(Ord. No. 99-3044, § 1, 9-28-99; Ord. No. 2013-3515, § 1, 2-12-13)

Editor's note— Ord. No. 99-3044, adopted Sept. 28, 1999, added provisions designated as § 44-95. Inasmuch as there already exists a section with that designation, the editor has redesignated said provisions as § 44-96 to avoid duplication of numbers.

Sec. 44-97. - Ignition interlock devices.

- (1) It is unlawful for any person to knowingly rent, lease or lend a motor vehicle to a person known to have had that person's driving privilege restricted as provided in RSMo 577.600 or RSMo Ch. 302, unless the vehicle is equipped with a functioning, certified ignition interlock device. Any person whose driving privilege is restricted as provided in RSMo 577.600 or RSMo Ch. 302 shall notify any other person who rents, leases or loans a motor vehicle to that person of the driving restriction imposed pursuant to said RSMo 577.600 or RSMo Ch. 302.
- (2) It is unlawful for any person whose driving privilege is restricted pursuant to the provisions of RSMo Ch. 577 or RSMo Ch. 302 to request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.
- (3) It is unlawful for any person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person whose driving privilege is restricted pursuant to the provisions of RSMo Ch. 577 or RSMo Ch. 302.
- (4) It is unlawful for any person to tamper with or circumvent the operation of an ignition interlock device.

(Ord. No. 2009-3406, § 1, 9-8-09)

Secs. 44-98—44-105. - Reserved.

DIVISION 2. - DRIVING WHILE INTOXICATED, DRIVING WITH EXCESSIVE BLOOD ALCOHOL CONTENT AND TRANSPORTATION OR POSSESSION OF OPENED OR UNSEALED ALCOHOLIC BEVERAGES IN MOTOR VEHICLES^[3]

Footnotes:

— (3) —

Cross reference— *Alcoholic beverages generally, Ch. 4; offenses against public safety, § 29-106.*

Sec. 44-106. - Definitions.

- (a) As used in this division, the term "drive," "driving," "operates" or "operating" means physically driving or operating or being in actual physical control of a motor vehicle.
- (b) As used in this division, a person is in an "intoxicated condition" when he is under the influence of alcohol, a controlled substance, or drug, or any combination thereof.

State Law reference— Similar provisions, RSMo 577.001.

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 44-107. - Driving while intoxicated prohibited.

A person commits the offense of driving while intoxicated if he operates a motor vehicle while in an intoxicated or drugged condition.

(Ord. No. 85-2088, § 1, 7-23-85)

State Law reference— Similar provisions, RSMo 577.010(1).

Sec. 44-108. - Driving with excessive blood alcohol content prohibited.

- (a) A person commits the offense of driving with excessive blood alcohol content if he operates a motor vehicle in the city with eight-hundredths of one (1) percent or more by weight of alcohol in his blood.
- (b) As used in this section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred (100) milliliters of blood and may be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes of determining the alcoholic content of a person's blood under this section, the test shall be conducted in accordance with the provisions of RSMo 577.020 to 577.041.

(Code 1973, § 42.28(a), (b); Ord. No. 2001-3130, § 1, 9-11-01)

State Law reference— Similar provisions, RSMo 577.012(1), (2).

Sec. 44-109. - Reimbursement of costs for driving while intoxicated; driving with excessive blood alcohol content.

- (a) Upon a plea of guilty, finding of guilty, or conviction for violation of the provisions of section 44-107, driving while intoxicated prohibited, or section 44-108, driving with excessive blood alcohol content prohibited, of this Code the court may, in addition to imposition of any penalties provided by law, order the defendant to reimburse the Ferguson Police Department for the costs associated with his arrest.
- (b) Such costs shall include the reasonable cost of making the arrest, including the cost of any chemical tests to determine the alcohol or drug content of the person's blood, and the cost of processing, charging, booking, and holding such person in custody.
- (c) The police department of the city may establish a schedule of such costs for submission to the court; however, the court may order the costs reduced if it determines that the schedule of costs is excessive given the circumstances of the case or for good cause shown.
- (d) These fees shall be calculated as additional costs by the municipal court and shall be collected by the court in the same manner as other costs and fees are collected and remitted to the director of finance.
- (e) The director of finance shall retain these fees in a separate account known as the DWI/drug enforcement account. Monies within the DWI/drug enforcement account shall be appropriated by the council to the police department of the city from such account in amounts equal to those costs so incurred and shall be specifically used to enhance and support the enforcement and prosecution of alcohol- and drug-related traffic laws within the city.

(Ord. No. 92-2574, § 1, 10-27-92)

Cross reference— Court costs, § 13-70.

Sec. 44-110. - Transportation or possession of opened or unsealed alcoholic beverages in motor vehicles prohibited; exceptions.

- (a) Except as provided in paragraph (c), no driver may transport, carry, possess, or have any opened or unsealed alcoholic beverages within the passenger area of any motor vehicle upon any street or highway within the City of Ferguson.
- (b) Except as provided in paragraph (c), no passenger may carry, possess, or have any opened or unsealed alcoholic beverages within any passenger area of any motor vehicle upon any street or highway within the City of Ferguson, Missouri.
- (c) This section shall not apply to the passengers in a limousine when it is carrying passengers for hire, the passengers on a chartered bus when it is carrying passengers for hire, or on a mobile home or recreational vehicle as defined in Chapter 16 of this Code. However, the driver of any such vehicle is prohibited from consuming or having any alcoholic liquor in or about the driver's area. Any evidence of alcoholic consumption by the driver shall be prima facie evidence of such driver's failure to obey this section. For the purposes of this section, a limousine is a motor vehicle with the passenger compartment enclosed by a partition or dividing window used in the for-hire transportation of passengers and operated by an individual in possession of a valid Missouri driver's license.
- (d) The exemption applicable to chartered buses under paragraph (c) does not apply to any chartered bus being used for school purposes.
- (e) As provided for in this section, alcoholic beverages shall include intoxicating liquor and non-intoxicating beer as defined in section 29-121 of this Code.

(Ord. No. 94-2677, § 1, 1-11-94)

Sec. 44-111. - Proof of blood alcohol content.

Upon trial of any person for any violation of this division, the amount of alcohol in a person's blood at the time of the act alleged as shown by any chemical analysis of the person's blood, breath, saliva or urine is admissible in evidence if such analysis was conducted in accord with the provisions of the Revised Statutes of Missouri regarding such tests, and in accord with methods and standards approved by the Missouri Division of Health for such purpose. If the results of an analysis thus conducted show that there was eight-hundredths (.08) of one (1) percent or more by weight of alcohol in the person's blood, this shall be prima facie evidence that the person was intoxicated at the time the specimen was taken.

(Ord. No. 2001-3131, § 1, 9-11-01)

Secs. 44-112—44-120. - Reserved.

DIVISION 3. - SPEED^[4]

Footnotes:

— (4) —

State Law reference— *Municipal authority to establish reasonable speed regulations, RSMo 304.120(1).*

Sec. 44-121. - State speed laws applicable.

The state traffic laws regulating the speed of vehicles shall be applicable upon all streets within the city, except that the city may by ordinance declare and determine upon the basis of engineering and traffic investigation that certain speed regulations shall be applicable upon specified streets or in certain areas described in section 44-502. In this event, it shall be unlawful for any person to drive a vehicle at a speed in excess of the speed declared when signs are in place giving notice thereof.

(Ord. No. 96-2868 § 1, 11-12-96)

State Law reference— Similar provisions, RSMo 300.205.

Sec. 44-122. - Maximum speed limits established.

- (a) Unless otherwise specified in this chapter, no person shall drive a motor vehicle (except emergency vehicles on emergency runs) on any street in the city at any time at a rate of speed in excess of twenty-five (25) miles per hour, unless a higher maximum rate of speed applicable to certain designated portions of specific streets is fixed by ordinance and marked by signs erected at the beginning and end of such designated portions of such streets.
- (b) No person shall operate or drive a motor vehicle in a congested district designated in section 44-503 at a rate of speed in excess of twenty (20) miles per hour, or in a school zone designated in section 44-504 at a rate of speed in excess of twenty (20) miles per hour.

(Code 1973, § 42.26(a), (b); Ord. No. 85-2110, § 1, 11-12-85)

Sec. 44-123. - Regulation of speed by traffic signals.

The city traffic engineer is authorized to regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speeds otherwise applicable within the district or at intersections and shall erect appropriate signs giving notice thereof.

State Law reference— Similar provisions, RSMo 300.210.

Sec. 44-124. - Construction area speed limits.

The city traffic engineer, on any section of a roadway in this city where construction or major maintenance operations are being effected, may fix a speed limit in any such areas by posting appropriate signs, and the operation of a motor vehicle in excess of any such speed limit in the area so posted shall be deemed prima facie evidence of careless and imprudent driving and a violation of section 44-122.

State Law reference— Similar provisions, RSMo 304.351(7).

Sec. 44-125. - Regulation of slow speed.

No person shall drive a motor vehicle at such a slow speed as to impede or bloc the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or because upon a grade, or in compliance with law. Police officers may enforce the provisions of this section by directions to drivers, and in the event of apparent wilful disobedience to this provision and refusal to comply with directions of an officer in accordance with this section, the continued slow operation by a driver shall be an offense.

State Law reference— Similar provisions, RSMo 304.011.

Sec. 44-126. - Violation of public safety on roadways and related automated speed enforcement regulations.

- (a) *Definitions.* For purposes of this section, the following terms and phrases shall be defined as follows:

Automated traffic enforcement system means a system that consists of camera(s) and vehicle sensor(s) capable of calculating the speed of a moving motor vehicle and producing high resolution color digital recorded images that show the license plate and number of the motor vehicle.

Municipal court means the municipal court of the city.

Operator means any person who operates or drives a motor vehicle and has the same meaning as "driver."

Owner means the owner(s) of a motor vehicle as shown on the motor vehicle registration records of the state department of revenue or the analogous department or agency of another state or country.

Recorded image means an image digitally recorded by an automated traffic enforcement system.

System location means the location at which an automated traffic enforcement system has been located.

(b) *Violation of public safety on roadways.* It shall be deemed a violation of public safety on roadways by an owner if their motor vehicle is operated at a rate of speed more than ten (10) miles an hour in excess of the posted speed limit. It shall be a rebuttable presumption that when a vehicle is recorded by an automated traffic enforcement system, it was being operated with the consent or the permission of the owner. Any such infraction may be excused as provided herein upon submission of a sufficient sworn statement that:

- (1) The posting of the speed limit was not in accordance with state or local law;
- (2) The operator of the motor vehicle was acting in compliance with the lawful order or direction of a police officer;
- (3) The operator of the motor vehicle violated the speed limit by more than ten (10) miles per hour in order to yield the right-of-way to an immediately approaching authorized emergency vehicle;
- (4) The motor vehicle was being operated as an authorized emergency vehicle as defined and in compliance with RSMo 304.022;
- (5) The motor vehicle was a stolen vehicle and being operated by a person other than the owner without the effective consent of the owner (but this shall not be a justification for such an operator) and the theft was timely reported to the appropriate law enforcement agency;
- (6) The license plate and/or tags depicted in the recorded image(s) were stolen and being displayed on a motor vehicle other than the motor vehicle for which they were issued (but this shall not be a justification for the operator of the motor vehicle) and the theft was timely reported to the appropriate law enforcement agency;
- (7) Ownership of the motor vehicle had in fact been transferred prior to the violation (provided state records substantiate this statement).

The court may consider any other issue or evidence that it deems pertinent related to any civil infraction charged hereunder.

A violation hereunder is based on ownership, without regard to whether the owner was operating the motor vehicle at the time of the infraction, except that, no liability shall be imposed on the owner of a motor vehicle when the vehicle is being permissively used by a lessee if the owner furnishes the name, address, and operator's license number of the person renting or leasing the motor vehicle at the time the violation occurred to the city within twenty-one (21) days from the time of receipt of written request for such information.

(c) *Automated traffic enforcement system authorized.* An automated traffic enforcement system is hereby authorized to be installed and operated on streets within the city for the purpose of detecting violations of public safety on roadways. Specific system locations shall be determined from time to

time by the chief of police with consultation with the city manager. Recorded images from a single camera unit shall constitute sufficient basis for a notice of violation if alone or in combination they clearly show the speed at which a motor vehicle is moving and the license plate and license number of the motor vehicle. Recorded images may also be used as evidence of other violations to the extent permitted by applicable law.

(d) *Enforcement procedures.*

- (1) Except as otherwise provided herein, upon review of recorded image(s) showing an infraction under this section, a police officer of the city's police department shall complete a notice in a form approved by the chief of police (which form may be completed electronically) and the city shall cause the completed notice to be mailed to the owner at the owner's last known address by first class U.S. Mail, postage prepaid, within fourteen (14) days after the date the recorded image(s) were taken.
- (2) Based upon the information obtained from the recorded image, the police officer may obtain any additional information about the owner, which is necessary to complete or mail the notice, from the records of the state department of revenue or any other legal means; or, if the motor vehicle is registered in another state or country, from the motor vehicle registration records of the department or agency of the other state or country analogous to the state department of revenue or any other legal means.
- (3) If there is more than one (1) owner of the motor vehicle, a notice may be completed and addressed to any or all of them, and each such owner shall be jointly and severally liable hereunder.
- (4) The notice shall direct the owner to respond within the time prescribed in the notice either by paying the fine specified in this section at the appropriate time and place in the city or by providing a sworn statement of applicability of one (1) of the justifications for exceeding the speed limit set forth in this section.
- (5) A copy of the recorded image(s) upon which the notice is based shall be sent to the owner with the notice.
- (6) The notice shall include a request that the name, address and operator's license number of any person renting or leasing the motor vehicle at the time the violation occurred be furnished to the city within twenty-one (21) days of receipt of the request.
- (7) Any sworn statement provided by an owner shall be examined by the city's prosecuting attorney. If the prosecuting attorney determines that a statement is insufficient, including but not limited to a determination based upon a comparison of the statement to the recorded image(s), then a letter shall be sent to the owner (any or all of them) at its last known address by first class U.S. Mail, postage prepaid by the city indicating that the statement was insufficient and the fine specified in this section must be paid at the appropriate time and place in the city within twenty-one (21) days of the date of the letter. If the statement timely provides the name, address and operator's license number of any person renting or leasing the motor vehicle at the time the infraction occurred, then the notice of violation shall be withdrawn, a letter to that effect shall be sent to the owner by the city, and new notice of violation shall be issued to the identified person together with a copy of the identifying statement, which person shall be liable hereunder as if any owner.

(8)

In lieu of completing a notice of violation, the police department may send a warning notice to the owner if the system location was established within seven (7) days of the violation, or if the reviewing officer determines that the recorded images are inconclusive or that it is more likely than not that a justification applies to the infraction.

- (9) The provisions of this chapter are complementary to, and not instead of, other provisions of the municipal code and corresponding state statutes pertaining to the offense of speeding.

It is the intent of this chapter to address the conduct and behavior of owners only, and to ensure that all those who own a vehicle allow only responsible individuals to operate their vehicle.

- (e) *Fine.* Notwithstanding any other provision of this Code, the civil fine for the infraction of violation of public safety on roadways shall be one hundred dollars (\$100.00). Under no circumstances may a person be imprisoned for an infraction.
- (f) *Warning signs.* An automated traffic enforcement system may be identified by advance warning signs posted at entrances to the city and/or at specific system locations, if the police chief determines that such signs will enhance the efficacy of the system. Absence of such signs shall not provide justification or excuse for an infraction.
- (g) *Court hearing.* Any person who does not respond to a notice or letter issued under this section by payment of fine or by timely and sufficient statement as described herein, shall be automatically deemed to have requested a court date before the city's municipal court, and shall be sent a notice of hearing with a court date. If the person fails to appear as ordered, the person shall be sent a summons to appear in court. If the person fails to appear the person may be subject to prosecution for the offense of failure to appear in the municipal court for violation of this section subject to the general penalty provisions set forth in the municipal code in addition to any other applicable liabilities or sanction.

(Ord. No. 2013-3529, § 1, 6-11-13)

Secs. 44-127—44-140. - Reserved.

DIVISION 4. - RIGHT-OF-WAY^[5]

Footnotes:

--- (5) ---

Cross reference— *Obstructions near intersections, § 40-6.*

Sec. 44-141. - Right-of-way at intersections—Generally.

- (a) The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different street; provided, however, there is no form of traffic-control at the intersection.
- (b) When two (2) vehicles enter an intersection from different streets at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the driver of the vehicle on the right. This section shall not apply to vehicles approaching each other from opposite directions when the driver of one (1) of the vehicles is attempting to or is making a left turn.

(Code 1973, § 42.23(a), (b))

State Law reference— Similar provisions, RSMo 304.351(1), (2).

Sec. 44-142. - Same—Left turns.

The driver of a vehicle within a intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

(Code 1973, § 42.23(c))

State Law reference— Similar provisions, RSMo 304.351(3).

Sec. 44-143. - Same—When stop required.

Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection, indicated by a stop sign, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic in the intersecting roadway before entering the intersection. After having stopped, the driver shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on the highway as to constitute an immediate hazard during the time when the driver is moving across or within the intersection.

(Code 1973, § 42.23(d))

State Law reference— Similar provisions, RSMo 304.351(4)(1)(a).

Sec. 44-144. - Same—When yielding required.

The driver of a vehicle approaching a yield sign shall in obedience to the sign slow down to a speed reasonable to the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time traffic is moving across or within the intersection.

State Law reference— Similar provisions, RSMo 304.351(4)(1)(b).

Sec. 44-145. - Through streets designated.

Those streets and parts of streets described by section 44-505 are declared to be through streets for the purposes of this division.

(Code 1973, § 42.30)

State Law reference— Similar provisions, RSMo 300.255.

Sec. 44-146. - Placement, maintenance of stop signs at through streets.

Whenever any through street is established by the city council, it shall be the duty of the city traffic engineer to place and maintain a stop sign on each and every street intersecting any such through street unless traffic at any such intersection is controlled at all times by traffic-control signals; provided, however, that at the intersection of two (2) through streets or at the intersection of a through street and a heavy traffic street not so designated, stop signs shall be erected at the approaches of either of the streets as may be determined by the city traffic engineer upon the basis of an engineering and traffic study.

(Code 1973, § 42.32)

State Law reference— Similar provisions, RSMo 300.260.

Sec. 44-147. - Other intersections where stop or yield required.

- (a) The city traffic engineer is hereby authorized to determine and designate intersections where particular hazard exists upon other than through streets and to determine whether vehicles shall stop at one (1) or more entrances to any such intersection, in which event he shall cause to be erected a stop sign at every such place described in sections 44-506 and 44-507 where a stop is required, or whether vehicles shall yield the right-of-way to vehicles on a different street at such intersection as prescribed in section 44-508, in which event he shall cause to be erected a yield sign at every place where obedience thereto is required. Appropriate signs shall be erected at pedestrian crosswalks and school crosswalks.
- (b) Any driver of a vehicle when approaching a school crossing, or pedestrian crossing where a yield sign, stop for pedestrian in crosswalk sign, or school crossing sign has been erected to control traffic, shall approach such intersection or point at a speed not in excess of fifteen (15) miles per hour, and shall observe for traffic and pedestrians and school children approaching such intersection. If pedestrians or children are standing waiting to cross at a pedestrian crosswalk or at a school crossing, or are closely approaching such intersection controlled by a yield sign, yield to pedestrian sign, stop for pedestrian in crosswalk sign, or school crossing sign, the driver approaching such yield sign, yield to pedestrian sign, stop for pedestrian in crosswalk sign, or school crossing sign, shall bring his vehicle to a complete stop until all vehicles approaching such intersection from the right or left have cleared the intersections, and all pedestrians or school children standing in or approaching the crosswalk or school crossing have cleared the crosswalk or school crossing. If there are no pedestrians or school children waiting or closely approaching a pedestrian crosswalk or school crossing, the driver may proceed through such intersection or crosswalk, or school crossing without stopping.

(Code 1973, §§ 42.32, 42.33(a), (b); Ord. No. 92-2520, § 1, 2-11-92)

State Law reference— Similar provisions, RSMo 300.265.

Sec. 44-148. - Position for stopping at certain intersections.

- (a) The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.
- (b) Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

(Code 1973, § 42.31(a))

State Law reference— Similar provisions, RSMo 300.270.

Sec. 44-149. - Driver to yield right-of-way at stop intersections.

Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop and, after having stopped, shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is

approaching so closely on the highway as to constitute an immediate hazard during the time when the driver is moving across or within the intersection.

State Law reference— Similar provisions, RSMo 300.275.

Sec. 44-150. - Vehicle entering yield intersection.

The driver of a vehicle approaching a yield sign shall in obedience to the sign slow down to a speed reasonable for the existing conditions and shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection; provided, however, that if any such driver is involved in a collision with a vehicle in the intersection, after driving past a yield sign without stopping, the collision shall be deemed prima facie evidence of his failure to yield right-of-way.

State Law reference— Similar provisions, RSMo 300.280.

Sec. 44-151. - Duty of driver upon approach of authorized emergency vehicle.

- (a) Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in that position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.
- (b) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(Code 1973, § 42.09(a))

State Law reference— Similar provisions, RSMo 300.105, 304.022.

Sec. 44-152. - Vehicles emerging from alley, building, private road or driveway.

The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway and shall yield the right-of-way to any pedestrian as may be necessary to avoid a collision and, upon entering the roadway, shall yield the right-of-way to all vehicles approaching on the roadway.

(Code 1973, §§ 42.23(e), 42.44)

State Law reference— Similar provisions, RSMo 300.285, 304.351(5).

Sec. 44-153. - Vehicles intending to make left turn into alley, private road or driveway.

The driver of a vehicle intending to make a left turn into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction when the making of any such left turn would create a traffic hazard.

(Code 1973, § 42.23(f))

State Law reference— Similar provisions, RSMo 304.351(6).

Sec. 44-154. - Stop required at railroad grade crossing, when.

- (a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of any such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of the railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:
- (1) A clearly visible electric or mechanical-signal device gives warning of the immediate approach of a railroad train;
 - (2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
 - (3) An approaching railroad train is plainly visible and is in hazardous proximity to any such crossing;
 - (4) An official stop sign has been posted at such crossing by the traffic engineer.
- (b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while any such gate or barrier is closed or is being opened or closed.

(Code 1973, § 42.26)

State Law reference— Similar provisions, RSMo 300.295, 304.035.

Secs. 44-155—44-165. - Reserved.

DIVISION 5. - OVERTAKING AND PASSING

Sec. 44-166. - Drivers to sound signaling device before passing.

Any operator or driver overtaking and desiring to pass a vehicle shall sound his horn before starting to pass.

(Code 1973, § 42.20(a)(1))

State Law reference— Similar provisions, RSMo 304.016(1)(1).

Sec. 44-167. - Position of vehicle when passing.

Except where overtaking and passing on the right is permitted, the driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(Code 1973, § 42.20(a)(2))

State Law reference— Similar provisions, RSMo 304.016(2).

Sec. 44-168. - Duty of driver of overtaken vehicle.

Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

(Code 1973, § 42.20(a)(3))

State Law reference— Similar provisions, RSMo 304.016(1)(2).

Sec. 44-169. - Limitations on passing on the left.

- (a) Except when a roadway has been divided into three (3) traffic lanes, no vehicle shall be driven to the left side of the center line of any roadway in this city in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and is free of oncoming traffic

for a sufficient distance ahead to permit any such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.

- (b) No vehicle shall, in overtaking and passing another vehicle proceeding in the same direction, be driven to the left side of the roadway under the following conditions:
 - (1) When approaching the crest of a grade or upon a curve of the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
 - (2) When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct or tunnel or when approaching within one hundred (100) feet of or at any intersection.

(Code 1973, § 42.20(c), (d))

State Law reference— Similar provisions, RSMo 304.016(3), (4).

Sec. 44-170. - When passing on the right is permitted.

- (a) The driver of a motor vehicle may overtake and pass to the right of another vehicle only under the following conditions:
 - (1) When the vehicle overtaken is making or is about to make a left turn;
 - (2) Upon a city street with unobstructed pavement of sufficient width for two (2) or more lines of vehicles in each direction;
 - (3) Upon a one-way street.
- (b) The driver of a motor vehicle may overtake and pass another vehicle upon the right only under the foregoing conditions when any such movement may be made in safety. In no event shall any such movement be made by driving off the paved or main-traveled portion of the roadway.
- (c) The provisions of this section shall not relieve the driver of a slow-moving vehicle from the duty to drive as closely as practicable to the right-hand edge of the roadway.

(Code 1973, § 42.20(b))

State Law reference— Similar provisions, RSMo 304.016(2).

Sec. 44-171. - Passing vehicle at crosswalk prohibited.

Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass any such stopped vehicle.

(Code 1973, § 42.45(b))

State Law reference— Similar provisions, RSMo 300.375(4).

Sec. 44-172. - Following too closely prohibited.

The driver of a vehicle shall not follow another vehicle more closely than is reasonably safe and prudent, having due regard for the speed of the vehicle and the traffic upon and the condition of the roadway.

(Code 1973, § 42.22)

State Law reference— Similar provisions, RSMo 304.017.

Sec. 44-173. - Passing school buses.

- (a) The driver of a vehicle upon any roadway in this city, upon meeting or overtaking from either direction any school bus which has stopped for the purpose of receiving or discharging any school children and whose driver has in the manner prescribed by law given the signal to stop, shall stop his vehicle before reaching any such school bus and shall not proceed until the school bus resumes motion, or until signaled by its driver to proceed.
- (b) The driver of a vehicle upon any roadway in this city with separate roadways need not stop upon meeting or overtaking a school bus which is on a different roadway, which is proceeding in the opposite direction on a highway containing four (4) or more lanes of traffic or which is stopped in a loading zone constituting a part of, or adjacent to, a limited or controlled access highway at a point where pedestrians are not permitted to cross the roadway.
- (c) If any vehicle is witnessed by a peace officer or the driver of a school bus to have violated the provisions of this section and the identity of the operator is not otherwise apparent, it shall be a rebuttable presumption that the person in whose name such vehicle is registered committed the violation. In the event that charges are filed against multiple owners of a motor vehicle, only one of the owners may be convicted and court costs may be assessed against only one of the owners. If the vehicle which is involved in the violation is registered in the name of a rental or leasing company and the vehicle is rented or leased to another person at the time of the violation, the rental or leasing company may rebut the presumption by providing the peace officer or prosecuting authority with a copy of the rental or lease agreement in effect at the time of the violation. No prosecuting authority may bring any legal proceedings against a rental or leasing company under this section unless prior written notice of the violation has been given to that rental or leasing by registered mail at the address appearing on the registration and the rental or leasing company has failed to provide the rental or lease agreement copy within fifteen (15) days of receipt of such notice.

(Code 1973, § 42.21; Ord. No. 99-3045, § 1, 9-28-99)

State Law reference— Similar provisions, RSMo 304.050(1), (4).

Secs. 44-174—44-185. - Reserved.

DIVISION 6. - TURNING MOVEMENTS

Sec. 44-186. - Procedure for turning at intersections.

The driver of a vehicle intending to turn at an intersection shall do so as follows:

- (1) For right turns, both the approach for a right turn and a right turn itself shall be made as close as practicable to the right-hand curb or edge of the roadway.
- (2) At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.
- (3) At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the

travel of any such vehicle and, after entering the intersection, the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in any such direction upon the roadway being entered.

(Code 1973, § 42.24)

State Law reference— Similar provisions, RSMo 300.215, 304.341(1)(1), (1)(2).

Sec. 44-187. - Turning on curve or crest of grade prohibited.

The driver of a vehicle shall not turn his vehicle around so as to proceed in the opposite direction upon any curve or upon the approach to or near the crest of a grade, or at any place upon a roadway where his vehicle cannot be seen by the driver of any other vehicle approaching from either direction along the roadway within a distance of three hundred (300) feet; or where the same may create a traffic hazard.

State Law reference— Similar provisions, RSMo 304.341(2).

Sec. 44-188. - U-turns; turns in residential districts.

- (a) It shall be unlawful for the driver of any vehicle to turn such vehicle so as to proceed in the opposite direction at any intersection controlled by a traffic signal or police officer or upon a street in a business district unless such movement can be made in safety and without backing or otherwise interfering with other traffic. The driver of a vehicle shall not turn the same so as to proceed in the opposite direction upon any street in a congested district.
- (b) No vehicle in a residence district shall be turned left across the roadway or so as to proceed in the opposite direction when any other vehicle is approaching from either direction where the same may create a traffic hazard.

(Code 1973, § 42.42)

State Law reference— Similar provisions, RSMo 300.235, 304.341(2), (3).

Sec. 44-189. - No left turns or no right turns.

No person shall make a left turn or right turn at any intersection specified on any of the intersections described in section 44-509.

(Code 1973, §§ 42.24, 42.63)

Sec. 44-190. - Placement of signs prohibiting or restricting turns.

The city traffic engineer is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right turn, left turn or U-turn, and shall place proper signs at any such intersections. The making of any such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when any such turns are permitted.

State Law reference— Similar provisions, RSMo 300.225, 304.341(1)(3).

Sec. 44-191. - Placement of turning markers.

The city traffic engineer is hereby authorized to place markers, buttons or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at any such intersections, and the course to be traveled as so indicated may conform to or be other than as prescribed by law or ordinance.

State Law reference— Similar provisions, RSMo 300.220(1), 304.341(1)(3).

Sec. 44-192. - Obedience to turning markers.

When authorized markers, buttons or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of any such indications.

State Law reference— Similar provisions, RSMo 300.220(2), 304.341(1)(3).

Sec. 44-193. - Obedience to no-turn signs.

Whenever authorized signs are erected indicating that no right turn, left turn or U-turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.

State Law reference— Similar provisions, RSMo 300.230, 304.341(1)(3).

Secs. 44-194—44-205. - Reserved.

DIVISION 7. - ONE-WAY STREETS

Sec. 44-206. - Placement, maintenance of signs.

Whenever this Code or any other city ordinance designates any one-way street or alley, the city traffic engineer shall place and maintain signs giving notice thereof, and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

State Law reference— Similar provisions, RSMo 300.240.

Sec. 44-207. - Movement of vehicular traffic generally.

Upon those streets and parts of streets and in those alleys described and designated by section 44-510, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

(Code 1973, § 42.38)

State Law reference— Similar provisions, RSMo 300.245.

Sec. 44-208. - Restriction of direction of vehicle traffic during certain periods.

- (a) The city traffic engineer is hereby authorized to determine and designate streets, parts of streets or specific lanes thereon upon which vehicular traffic shall proceed in one (1) direction during one (1) period and the opposite direction during another period of the day and shall place and maintain appropriate markings, signs, barriers or other devices to give notice thereof. The city traffic engineer may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.
- (b) It shall be unlawful for any person to operate any vehicle in violation of any such markings, signs, barriers or other devices so placed in accordance with this section.

State Law reference— Similar provisions, RSMo 300.250.

Secs. 44-209—44-220. - Reserved.

ARTICLE IV. - TRAFFIC-CONTROL DEVICES^[6]

Footnotes:

-- (6) --

State Law reference— *Traffic-control devices, RSMo 300.130 et seq.*

Sec. 44-221. - Standards and specifications generally.

- (a) All traffic-control signs, signals and devices shall conform to the manual of uniform traffic-control devices and such other specifications as have been approved by the state highway commission or resolution adopted by the council.
- (b) All signs or signals required by this chapter for a particular purpose shall, so far as practicable, be uniform as to type and location throughout the city.
- (c) All traffic-control devices so erected and not inconsistent with the provisions of this chapter shall be official traffic-control devices.

State Law reference— Similar provisions, RSMo 300.135.

Sec. 44-222. - Placement, maintenance.

The city traffic engineer shall place and maintain traffic-control signs, signals and devices when and as required under the provisions of this chapter to make effective such provisions, and he may place and maintain any such additional traffic-control devices as he may deem necessary to regulate traffic under the provisions of this chapter or under state law or to guide or warn traffic.

(Code 1973, § 42.10(a))

State Law reference— Similar provisions, RSMo 300.130.

Sec. 44-223. - Official traffic-control devices continued in effect.

All official traffic-control devices which are lawfully in place immediately prior to the effective date of this Code are hereby redesignated as official traffic-control devices, and each shall continue to be such until changed, replaced or removed pursuant to ordinance of the council or directive of the city traffic engineer.

Sec. 44-224. - Obedience by drivers.

The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.

(Code 1973, § 42.10(c))

State Law reference— Similar provisions, RSMo 300.140.

Sec. 44-225. - When required for enforcement of chapter.

No provision of this chapter for which official traffic-control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic-control devices are required, any such section shall be effective even though no devices are erected or in place.

(Code 1973, § 42.10(b))

Sec. 44-226. - Presumption of validity.

- (a) Whenever official traffic-control devices are placed in position approximately conforming to the requirements of this chapter, any such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.
- (b) Any official traffic-control device placed pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to any such devices shall be presumed to comply with the requirements of this chapter, unless the contrary shall be established by competent evidence.

State Law reference— Similar provisions, RSMo 300.150.

Sec. 44-227. - Traffic-control signal legend.

Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and these lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) *Green indication:*

- a. Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at that place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time the signal is exhibited.
- b. Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by the arrow, or such other movement as is permitted by other indications shown at the same time. Any such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.
- c. Unless otherwise directed by a pedestrian-control signal as provided in this article, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) *Steady yellow indication:*

- a. Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.
- b. Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian-control signal as provided in this article, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(3) *Steady red indication:*

- a. Vehicular traffic facing a steady red signal alone shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown.
- b. The driver of a vehicle which is stopped as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection in obedience to a red signal, may cautiously enter the intersection to make a

right turn but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at the intersection, except that the state highway commission with reference to an intersection involving a state highway, and local authorities with reference to an intersection involving other highways under their jurisdiction, may prohibit any such right turn against a red signal at any intersection where safety conditions so require, and this prohibition shall be effective when a sign is erected at such intersection giving notice thereof.

c. Unless otherwise directed by a pedestrian-control signal as provided in this article, pedestrians facing a steady red signal alone shall not enter the roadway.

(4) If an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made but, in the absence of any such sign or marking, the stop shall be made at the signal.

(Code 1973, §§ 42.11(a)—(c), (f); 42.11A.1)

State Law reference— Similar provisions, RSMo 300.155, 304.281.

Sec. 44-228. - No right turns on red signal light.

No right turns on red shall be authorized after stopping at red signal lights at the intersections described in section 44-511.

(Code 1973, § 42.11A)

Sec. 44-229. - Pedestrian-control signals.

Whenever special pedestrian-control signals exhibiting the words "Walk" or "Don't Walk" are in place, the signals shall indicate as follows:

- (1) *Walk*. Pedestrians facing any such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.
- (2) *Wait* or *Don't Walk*. No pedestrian shall start to cross the roadway in the direction of any such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety zone while the wait signal is showing.

(Code 1973, § 42.11(d), (e))

State Law reference— Similar provisions, RSMo 300.160, 304.291.

Sec. 44-230. - Flashing signals.

(a) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

- (1) *Flashing red (stop signal)*. When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.
- (2) *Flashing yellow (caution signal)*. When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past any such signal only with caution.

(b) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in section 44-154.

(Code 1973, § 42.11(g), (h))

State Law reference— Similar provisions, RSMo 300.165, 304.301.

Sec. 44-231. - Lane direction control signals.

When lane direction control signals are placed over the individual lanes of a street or highway, vehicular traffic may travel in any lane over which a green signal is shown, but shall not enter or travel in any lane over which a red signal is shown.

State Law reference— Similar provisions, RSMo 300.170, 304.311.

Sec. 44-232. - Display of unauthorized traffic-control devices.

No person shall place, maintain or display upon or in view of any highway an unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device.

(Code 1973, § 42.12)

State Law reference— Similar provisions, RSMo 300.175, 304.321(1).

Sec. 44-233. - Interference with traffic-control devices.

No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down or remove any official traffic-control device or any inscription, shield or insignia thereon, or any other part thereof.

(Code 1973, § 42.13)

State Law reference— Similar provisions, RSMo 300.180, 304.331.

Sec. 44-234. - Violation of public safety at intersections and the automated enforcement of traffic control signal regulations.

(1) *Definitions.* For purposes of this section, the following terms and phrases shall be defined as follows:

Automated photo traffic enforcement system means a system that:

- (a) Consists of camera(s) and vehicle sensor(s), installed to work in conjunction with an electrically operated traffic control signal; and
- (b) Is capable of producing high resolution color digital recorded images that show: (1) the traffic control signal while it is emitting a steady red signal for a direction of travel through an intersection; (2) a motor vehicle entering or in the intersection in that direction of travel; and (3) the license plate and number of the motor vehicle; and
- (c) Is not designed to take recorded images of the faces of occupants of a motor vehicle.

Municipal court means the municipal court of the city.

Operator means any person who operates or drives a motor vehicle and has the same meaning as driver.

Owner means the owner(s) of a motor vehicle as shown on the motor vehicle registration records of the Missouri Department of Revenue or the analogous department or agency of another state or country.

Recorded image means an image digitally recorded by an automated photo traffic enforcement system.

System location means an intersection at which an automated photo traffic enforcement system has been installed.

Traffic control signal means a traffic control device that displays alternating red, yellow, and green lights intended to direct traffic when to stop at or proceed through an intersection. (See 301.010 RSMo for statutory definitions of "owner" and "operator").

- (2) *Violation of public safety at intersections.* Except as otherwise provided in this section, a person commits the infraction of violation of public safety at an intersection when a motor vehicle of which that person is an owner is present in an intersection in a direction of travel while the traffic control signal for the intersection is emitting a steady red signal for that direction of travel through the intersection, unless the motor vehicle is in the process of making a lawful right turn. Provided, however, that an infraction shall be excused upon submission of a sworn statement that the presence of the motor vehicle in the intersection was justified because:
- (a) The traffic control signal was not in proper position and sufficiently legible to an ordinarily observant person;
 - (b) The operator of the motor vehicle was acting in compliance with the lawful order or direction of a police officer;
 - (c) The operator of the motor vehicle violated the instruction of the traffic control signal in order to yield the right-of-way to an immediately approaching authorized emergency vehicle;
 - (d) The motor vehicle was being operated as part of a funeral procession pursuant to Section 194.503 RSMo;
 - (e) The motor vehicle was being operated as an authorized emergency vehicle as defined and in compliance with Section 304.022 RSMo;
 - (f) The motor vehicle was a stolen vehicle and being operated by a person other than the owner without the effective consent of the owner (but this shall not be a justification for such an operator) and the theft was timely reported to the appropriate law enforcement agency;
 - (g) The license plate and/or tags depicted in the recorded image(s) were stolen and being displayed on a motor vehicle other than the motor vehicle for which they were issued (but this shall not be a justification for the operator of the motor vehicle) and the theft was timely reported to the appropriate law enforcement agency;
 - (h) Ownership of the motor vehicle had in fact been transferred prior to the violation (provided state records substantiate this statement);
 - (i) The motor vehicle was present in the intersection because it was inoperable.

Liability hereunder is based on ownership, without regard to whether the owner was operating the motor vehicle at the time of the violation, except that, as provided in Section 304.120.4 RSMo, no liability shall be imposed on the owner of a motor vehicle when the vehicle is being permissively used by a lessee

if the owner furnishes the name, address, and operator's license number of the person renting or leasing the motor vehicle at the time the violation occurred to the city within ten (10) days from the time of receipt of written request for such information.

- (3) *Automated photo traffic enforcement system authorized.* An automated photo traffic enforcement system is hereby authorized to be installed and operated within the city for the purpose of detecting violations of public safety at intersections. Specific system locations shall be determined from time to time by the city manager upon recommendation by the chief of police. Recorded images from a single camera unit shall constitute sufficient basis for citation if alone or in combination they clearly show that the traffic control signal for an intersection is emitting a steady red signal for the direction of travel of a motor vehicle, the motor vehicle present in the intersection, and the license plate and license number of the motor vehicle. Recorded images may also be used as evidence of other violations to the extent permitted by applicable law.
- (4) *Enforcement procedures.*
- (a) Except as otherwise provided herein, upon review of recorded image(s) showing an infraction under this section, a police officer of the city police department shall complete a citation in a form approved by the chief of police (which form may be completed electronically) and the city shall cause the completed citation to be mailed to the owner at its last known address by first class U.S. mail, postage prepaid, within thirty (30) days after the date the recorded image(s) were taken.
 - (b) Based upon the information obtained from the recorded image, the police officer may obtain any additional information about the owner, which is necessary to complete or mail the citation, from the records of the Missouri Department of Revenue or any other legal means; or, if the motor vehicle is registered in another state or country, from the motor vehicle registration records of the department or agency of the other state or country analogous to the Missouri Department of Revenue or any other legal means.
 - (c) If there is more than one (1) owner of the motor vehicle, a citation may be completed and addressed to any or all of them, and such owner shall be jointly and severally liable hereunder.
 - (d) The citation shall direct the owner to respond within thirty (30) days of the date of mailing of the citation either by paying the fine specified in this section at the appropriate time and place in the city or by providing a sworn statement of applicability of one (1) of the justifications for presence of the motor vehicle in the intersection set forth in this section.
 - (e) A copy of the recorded image(s) upon which the citation is based shall be sent to the owner with the citation.
 - (f) The citation shall include a request that the name, address and operator's license number of any person renting or leasing the motor vehicle at the time the violation occurred be furnished to the city within thirty (30) days of receipt of the request.
 - (g) Any sworn statement provided by an owner shall be examined by the city prosecuting attorney. If the city prosecuting attorney determines that a statement is sufficient, then the citation shall be withdrawn. If the city prosecuting attorney determines that a statement is insufficient, including but not limited to a determination based upon a comparison of the statement to the recorded image(s), then a letter shall be sent to the owner (any or all of them) at its last known address by first class U.S. mail, postage prepaid by the city indicating that the statement was insufficient and the fine specified in this section must be paid at the appropriate time and place in the city within

operator's license number of any person renting or leasing the motor vehicle at the time the violation occurred, then the citation shall be withdrawn, a letter to that effect shall be sent to the owner by the city, and a new citation shall be issued to the identified person together with a copy of the identifying statement, which person shall be liable hereunder as if any owner.

- (h) In lieu of completing a citation, the police department may send a warning notice to the owner if the system location was established within one (1) week of the violation, or if the reviewing officer determines that the recorded images are inconclusive or that it is more likely than not that a justification applies to the violation.
- (5) *Fine.* Notwithstanding any other provision of the City Code of Ordinances, the fine for the infraction of violation of public safety at an intersection shall be one hundred dollars (\$100.00) and under no circumstances may a person be imprisoned for such an infraction.
- (6) *Warning signs.* An automated photo traffic enforcement system may be identified by advance warning signs posted at entrances to the city and/or at specific system locations, if the council determines that such signs will enhance the efficacy of the system. Absence of such signs shall not provide justification for a violation.
- (7) *Failure to respond to citation.* Any person who shall fail to respond to a citation or letter issued under this section by timely payment of fine or by timely and sufficient statement as described herein, or who shall submit a false sworn statement hereunder shall be subject to prosecution for the offense of failure to appear in the municipal court for violation of this ordinance subject to the general penalty provisions set forth in the Municipal Code in addition to any other applicable liabilities or sanction.

(Ord. No. 2010-3448, § 1, 10-26-10)

Secs. 44-235—44-250. - Reserved.

ARTICLE V. - STOPPING, STANDING AND PARKING^[7]

Footnotes:

— (7) —

Cross reference— *Parking mobile homes and restrictions vehicles, § 27-5.*

DIVISION 1. - GENERALLY

Sec. 44-251. - Scope of article.

The provisions of this article prohibiting the stopping, standing or parking of a vehicle shall apply at all times or at those times specified in this article or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control device.

State Law reference— Similar provisions, RSMo 300.520.

Sec. 44-252. - Provisions of article not exclusive.

The provisions of this article imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles in specified places or at specified times.

State Law reference— Similar provisions, RSMo 300.525.

Sec. 44-253. - Parking signs required generally.

Whenever by this Code or any other ordinance of the city any parking time limit is imposed or parking is prohibited on designated streets, it shall be the duty of the city traffic engineer to erect appropriate signs giving notice thereof and no such regulations shall be effective unless such signs are erected and in place at the time of any alleged offense.

State Law reference— Similar provisions, RSMo 300.545.

Sec. 44-254. - Prohibited parking zones generally.

When signs are erected giving notice thereof, no person shall park a vehicle at any time upon any of the streets described by section 44-512.

(Code 1973, § 42.61)

State Law reference— Similar provisions, RSMo 300.530.

Sec. 44-255. - Restricted stopping, standing and parking zones generally.

When signs are erected giving notice thereof, no person shall stop, stand or park a vehicle between the hours specified or for a longer period of time than is specified by ordinance on any day except Sundays and public holidays within the district or upon any of the streets described by section 44-513.

(Code 1973, § 42.62)

State Law reference— Similar provisions, RSMo 300.535, 300.540.

Sec. 44-256. - Manner of parking generally.

Except as otherwise provided in this article, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked headed in the direction of the normal flow of traffic with the right-hand wheels thereof parallel to and within eighteen (18) inches of the right-hand curb.

(Code 1973, § 42.57(a))

State Law reference— Similar provisions, RSMo 300.415.

Sec. 44-257. - Parking not to obstruct traffic.

No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for free movement of vehicular traffic.

State Law reference— Similar provisions, RSMo 300.445.

Sec. 44-258. - Parking of commercial vehicles.

The parking of commercial motor vehicles upon the public streets of the city for more than three (3) continuous hours at one (1) location is hereby prohibited. Provided however, said prohibitions shall not apply during the time that such vehicle is actually being used for delivery, pickup, repair, or construction services.

(Code 1973, § 42.64; Ord. No. 93-2638, § 1, 6-22-93)

Sec. 44-259. - Prohibiting stopping, standing and parking areas enumerated.

- (a) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control device, no person shall stop, stand or park a vehicle:
 - (1) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
 - (2) On a sidewalk or between the curbline of the street and the sidewalk;
 - (3) Within an intersection;
 - (4) On a crosswalk;
 - (5) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless the traffic division indicates a different length by signs or markings;
 - (6) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
 - (7) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
 - (8) On any railroad tracks;
 - (9) At any place where official signs prohibit stopping;
 - (10) Within twenty-five (25) feet from the intersection of curblines, or, if none, then within fifteen (15) feet of the intersection of property lines at an intersection, except at alleys;
 - (11) Within fifty (50) feet of the intersection of property lines at an intersection where traffic is controlled by a traffic-control signal;
 - (12) Within six (6) feet of any U.S. mailbox.
- (b) No person shall stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:
 - (1) In front of a public or private driveway;
 - (2) Within fifteen (15) feet of a fire hydrant;
 - (3) Within twenty (20) feet of a crosswalk at an intersection;
 - (4) Within thirty (30) feet upon the approach to any flashing signal, stop sign or traffic-control signal located at the side of a roadway;
 - (5) Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance, when properly signposted;
 - (6) At any place where official signs prohibit standing.
- (c) No person shall park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:
 - (1) Within fifty (50) feet of the nearest rail of a railroad crossing;
 - (2) At any place where official signs prohibit parking.
- (d) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful.
- (e) No person shall park any type of vehicle, motorized or otherwise, or place any type of device, in a designated fire lane wherein said fire lane would thereby be obstructed.

(Code 1973, §§ 42.58, 42.93; Ord. No. 86-2159, § 1, 7-1-86)

State Law reference— Similar provisions, RSMo 300.440.

- (a) The city traffic engineer is hereby authorized to erect signs indicating no parking upon either or both sides of any street adjacent to any school property when any such parking would, in his opinion, interfere with traffic or create a hazardous situation.
- (b) When official signs are erected indicating no parking upon either side of a street adjacent to any school property, as authorized in this section, no person shall park a vehicle in any such designated place.

State Law reference— Similar provisions, RSMo 300.460.

Sec. 44-261. - Manner of parking within alleys.

No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property.

State Law reference— Similar provisions, RSMo 300.450.

Sec. 44-262. - Standing, parking along divided highways.

If a highway includes two (2) or more separate roadways and traffic is restricted to one (1) direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of any such one-way roadway unless signs are erected to permit any such standing or parking.

State Law reference— Similar provisions, RSMo 300.475.

Sec. 44-263. - Standing or parking on one-way streets.

The city traffic engineer is authorized to erect signs upon the left-hand side of any one-way street to prohibit the standing or parking of vehicles and, when any such signs are in place, no person shall stand or park a vehicle upon such left-hand side in violation of any such sign.

State Law reference— Similar provisions, RSMo 300.470.

Sec. 44-264. - Parking on narrow streets.

- (a) The city traffic engineer is hereby authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed twenty (20) feet, or upon one (1) side of a street as indicated by any such signs when the width of the roadway does not exceed thirty (30) feet.
- (b) When official signs prohibiting parking are erected upon narrow streets as authorized in this section, no person shall park a vehicle upon any such street in violation of any such sign.

(Code 1973, § 42.59)

State Law reference— Similar provisions, RSMo 300.465.

Sec. 44-265. - Stopping, standing or parking near hazardous or congested places.

- (a) The city traffic engineer is hereby authorized to determine and designate by proper signs places not exceeding one hundred (100) feet in length in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.
- (b) When official signs are erected at hazardous or congested places as authorized in this section, no person shall stop, stand or park a vehicle in any such designated place.

State Law reference— Similar provisions, RSMo 300.480.

Sec. 44-266. - Parking for certain purposes prohibited.

(a) No person shall park a vehicle upon any roadway for the principal purpose of:

- (1) Displaying any such vehicle for sale;
- (2) Displaying advertising;
- (3) Repairing any such vehicle except repairs necessitated by an emergency;
- (4) Selling or vending from any such vehicle.

(b) The provisions of this section shall not apply to the use of vehicles for door-to-door vending.

(Code 1973, §§ 42.65, 51.46)

State Law reference— Similar provisions, RSMo 300.455.

Sec. 44-267. - Designation, marking of angle parking.

(a) The city traffic engineer shall determine upon what streets angle parking shall be permitted and shall mark or sign these streets. Angle parking shall not be indicated upon any federal-aid or state highway within the city unless the state highway commission has determined by resolution or order entered in its minutes that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(b) Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street.

(Code 1973, § 42.57(b))

State Law reference— Similar provisions, RSMo 300.420.

Sec. 44-268. - Obedience to angle parking signs.

On those streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by any such signs or markings.

(Code 1974, § 42.57(a)(1))

State Law reference— Similar provisions, RSMo 300.425.

Sec. 44-269. - Permits for loading or unloading vehicles with rear to curb.

(a) The city traffic engineer is authorized to issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of the permit. Any such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privilege as therein stated and authorized in this section.

(b) It shall be unlawful for any permittee under this section or other person to violate any of the special terms or conditions of any permit issued pursuant to this section.

(Code 1973, § 42.57(a)(2), (c))

State Law reference— Similar provisions, RSMo 300.430.

Sec. 44-270. - Designation of curb loading zones.

The city traffic engineer is hereby authorized to determine the location of passenger and freight curb loading zones and shall place and maintain appropriate signs indicating the same and stating the hours during which the provisions of this section are applicable.

State Law reference— Similar provisions, RSMo 300.485.

Sec. 44-271. - Permits for curb loading zones.

The city traffic engineer shall not designate or sign any curb loading zone upon special request of any person unless that person makes application for a permit for such a zone and for two (2) signs to indicate the ends of each such zone. The city traffic engineer, upon granting a permit and issuing any such signs, shall collect from the applicant and deposit in the city treasury a service fee of ten dollars (\$10.00) per year or fraction thereof and may by general regulations impose conditions upon the use of any such signs and for reimbursement of the city for the value thereof in the event of their loss or damage and their return in the event of misuse or upon expiration of permit. Every such permit shall expire at the end of one (1) year.

State Law reference— Similar provisions, RSMo 300.490.

Sec. 44-272. - Use of curb loading zones.

- (a) *Passenger.* No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to any such curb loading zone are effective, and then only for a period not to exceed three (3) minutes.
- (b) *Freight.* No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to any such zones are in effect, and then only for a period not to exceed fifteen (15) minutes; provided, notwithstanding anything to the contrary in this subsection, the maximum time limits for the stopping, standing or parking of any motor vehicle in a freight curb loading zone shall not exceed five (5) minutes for passenger automobiles and twenty (20) minutes for trucks.

(Code 1973, § 42.67)

State Law reference— Similar provisions, RSMo 300.495, 300.500.

Sec. 44-273. - Establishment, designation of public carrier stops and stands.

The city traffic engineer is hereby authorized and required to establish bus stops, bus stands, taxicab stands and stands for other passenger common carrier motor vehicles on any such public streets in any such places and in any such number as he shall determine to be of the greatest benefit and convenience to the public, and every such bus stop, bus stand, taxicab stand or other stand shall be designated by appropriate signs.

(Code 1973, § 42.68(a))

State Law reference— Similar provisions, RSMo 300.505.

Sec. 44-274. - Stopping, standing and parking of buses and taxicabs.

- (a) It shall be unlawful for the operator of any bus to stand or park or stop for the purpose of loading or unloading passengers upon any street in any congested district in any place other than a designated bus stop.
- (b) On any street other than in the congested district, the operator of any bus may temporarily stop, in accordance with other stopping or parking regulations, immediately after passing through the intersection for the purpose of and while actually engaged in loading or unloading passengers, unless

a different place has been designated as a bus stop or service car stop for the intersection, in which case the operator shall not stand, park, or stop in any other place than the designated bus stop.

- (c) The operator of a bus shall enter a bus stop, bus stand or passenger loading zone on a public street in such a manner that the bus, when stopped to load or unload passengers or baggage, shall be in a position with the right front wheel of the vehicle not further than eighteen (18) inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.
- (d) The operator of a taxicab shall not stand or park his vehicle upon any street in any congested district at any place other than in a taxicab stand so designated as provided in this section. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

(Code 1973, §§ 42.69, 42.70)

Cross reference— Taxicabs generally, § 47-11 et seq.

State Law reference— Similar provisions, RSMo 300.510.

Sec. 44-275. - Use of bus stops and taxicab stands.

No person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when their stopping does not interfere with any bus or taxicab waiting to enter or about to enter the zone.

(Code 1973, § 42.68(6))

Cross reference— Taxicabs generally, § 47-11 et seq.

State Law reference— Similar provisions, RSMo 300.515.

Sec. 44-276. - Unattended motor vehicle.

No person shall leave a motor vehicle unattended on the highway without first stopping the motor and cutting off the electric current and, when parked upon a perceptible grade, without turning the wheels of the vehicle to the curb or side of the roadway.

(Code 1973, § 42.66)

Sec. 44-277. - Parking for more than forty-eight hours.

- (a) *Prohibited.* It shall be unlawful for any person to encumber any street or sidewalk within the city by placing or parking, or causing to be placed or parked thereon, any vehicle for a period of time exceeding forty-eight (48) hours at any one (1) place.
- (b) *Notice to remove vehicle.* It shall be the duty of the chief of police, whenever he has knowledge or is informed that any vehicle is parked or placed in violation of this section, to forthwith give a written notice to the owner or driver of such vehicle, or, if he is not able to ascertain the name and whereabouts of such owner or driver, to place a written notice in a conspicuous place upon such vehicle, requiring that such vehicle be moved within a reasonable time, which time shall be specified in such notice and shall not exceed forty-eight (48) hours. Such notice may be served or placed upon

officer serving the same, who shall make his written return thereon, setting out when and where served, on whom served and such officer shall subscribe his name thereto. It shall be unlawful for the owner or driver thereof to fail to remove any such vehicle within the time specified in such notice.

- (c) *Impounding vehicle; fee.* If any vehicle placed or parked in violation of this section is not removed within the time required by the notice, it shall be the duty of the chief of police to remove such vehicle from the street or sidewalk to such place as may be designated by him for the impounding or storage of such vehicle. Every such vehicle so removed or impounded may be redeemed by the owner or driver, or by any person by authority of such owner or driver, by paying the city clerk a fee of one dollar (\$1.00) per day for the first two (2) weeks and ten dollars (\$10.00) per day thereafter that such vehicle is so impounded in addition to the reasonable costs incurred in removing the vehicle. The chief of police may at any time after the fee for redemption of any vehicle so impounded exceeds the value of such vehicle, sell the same at public sale to the highest bidder for cash, the proceeds of such sale to be paid over to the director of finance to be deposited in the general fund. Neither the city nor the chief of police nor any police officer shall be responsible for theft or damage to any such vehicle while so impounded or stored.

(Code 1973, § 42.71)

Sec. 44-278. - Removal of illegally parked vehicles.

Whenever any vehicle is found parked in a place where parking is not permitted, or whenever a vehicle is parked in violation of other parking provisions, such vehicle may be removed and conveyed by or under the immediate direction of a member of the police department by means of towing the same, or otherwise, to a police station or other place under the control of the police department. Before the owner or person in charge of such vehicle shall be permitted to remove it from the custody of the police department, he shall furnish evidence of his identity, title of vehicle, shall sign a release and shall pay the cost of towing of the vehicle and storage charges, if any.

(Code 1973, § 42.72)

Sec. 44-279. - Owner responsible for violation.

If any vehicle is found upon a street in violation of any provision of this chapter regulating the stopping, standing or parking of vehicles and the identity of the operator cannot be determined, the owner or person in whose name such vehicle is registered shall be held prima facie responsible for such violation.

(Code 1973, § 42.91)

Sec. 44-280. - Prohibited parking on certain streets after accumulation of snow or ice.

Parking shall be prohibited on the following streets whenever there has been an accumulation of snow in excess of two (2) inches or any accumulation of ice on said designated streets, until the snow or ice has been removed.

Street	Side
Arline	west
Averill	east

Ballman (Robert to Royal)	west
Bayview Court	north, circle and court
Briarwood	dead end around circle
Castro (7475 to 7495)	north
Estelle (South Harvey to Georgia)	south
Forest (Millman to Hartnett)	north
Halpin (Dupree to Blanton)	north
Lamotte	east
Laurette (Blanding to Castro)	west
Millman (Robert to Royal)	west
North Clay (Robert to Thoroughman)	west
Palace Court	north
Plaza (North to Graf)	west
Roberta	north
Ronbar Place	east
Rowles	south
Shirley	west
Superior (Robert to High)	west
Teston	west
Vershire	south and circle
Willmann Court (1050 to Woodstock)	east
Wylin Court (1032 to Woodstock)	east

(Ord. No. 89-2385, § 1, 10-24-89; Ord. No. 98-2979, § 1, 4-28-98; Ord. No. 2009-3407, § 1, 9-8-09)

Sec. 44-281. - Inoperable vehicles on property.

No owner, tenant, occupant, lessee or person who is charged with control of any property within the city shall allow to remain on such property for longer than ten (10) days any motor vehicle which cannot be driven upon the public streets because it does not have a valid current license plate as required by Chapter 301 of the Revised Statutes of Missouri (Registration and Licensing of Vehicles) and/or Chapter 307 of the Revised Statutes of Missouri (Vehicle Equipment Regulations). Provided, however, this section shall not apply to:

- (1) Any vehicle in an enclosed building, or on the property of a business enterprise operated for the purpose of selling, repairing, storing or renting motor vehicles;
- (2) Any vehicle in an operable condition which is not legally required, if driven on public streets, to be licensed by the State of Missouri; or
- (3) Any vehicles retained by the owner which are legally titled and licensed by the State of Missouri as an antique motor vehicle.

(Ord. No. 92-2561, § 1, 9-8-92)

Sec. 44-282. - Parking of boats on blocks on public streets.

The parking of boats or boats on trailers or on blocks or other means upon the public streets of the city for more than three (3) continuous hours at one (1) location is hereby prohibited.

(Ord. No. 93-2630, § 1, 5-25-93)

Secs. 44-283—44-290. - Reserved.

DIVISION 2. - HANDICAPPED PARKING^[8]

Footnotes:

— (8) —

Cross reference— *Discriminatory practices in places of public accommodation, § 21-1; handicapped persons, § 21-34 et seq.*

State Law reference— *Municipal regulation of wheelchair and handicap access, RSMo 71.365; license plates for the disabled, RSMo 301.142; establishment of handicapped parking by political subdivisions, RSMo 301.143.*

Sec. 44-291. - Authorized; identification.

- (a) Any person or corporation, regardless of whether any such corporation is for profit or nonprofit, public or private, having the lawful possession of an off-street parking facility such as a parking lot or shopping center, may designate reserved parking spaces to be used exclusively by vehicles which display a distinguishing license plate or placard issued by the state department of revenue or by a licensing agency of any state of the United States, Canada or Mexico; a veterans' administration handicapped license plate; or a municipally issued handicapped identification card which shall be displayed on the driver's side of the windshield.
- (b) The reserved parking spaces shall be situated as closely as possible to the nearest accessible entrance to the building being served thereby. The spaces shall be clearly marked by blue, white, or yellow paint on the paved portion of the parking lot, or on the curb, or at the edge of the paved area adjacent to the area so reserved. The reserved parking spaces shall be twelve (12) feet wide or

greater, or shall be open on one or both sides so as not to impede the safe egress and exit of the disabled person. Any area adjacent to said reserved spaces marked by blue, white or yellow paint in horizontal lines shall be considered as part of the reserved space for handicapped parking and shall not be utilized by any vehicle except those bearing the appropriate identification set forth in section 44-291(a). The reserved spaces shall also be indicated by a sign, upon which shall be inscribed the international symbol of accessibility and the words "Handicapped Parking."

(Ord. No. 84-2028, § 1(42.94(1)), 4-17-84; Ord. No. 97-2920, § 1, 7-15-97)

Sec. 44-292. - Signs.

Each parking lot or shopping area which shall provide reserved spaces for handicapped parking shall post a sign immediately adjacent to and shall be readily visible from such space, or in a conspicuous place at each entrance to the parking lot or shopping center, such sign to be at least eighteen (18) inches by twenty-four (24) inches in area, with lettering not less than one (1) inch stating the following:

"No person shall stop, stand, park or leave a motor vehicle in any space displaying the international handicapped symbol and words unless the vehicle displays a distinguishing license plate or placard. Regulations enforced by the City of Ferguson Police Department."

(Ord. No. 84-2028, § 1(42.94(2)), 4-17-84)

Sec. 44-293. - Procedure for establishing spaces.

Any person or corporation as defined in section 44-291 who shall be in possession of parking lots or of a shopping center desiring to come under the provisions of this division may do so by submitting to the city clerk and the chief of police a description of the number of spaces and the location thereof on each parking lot or shopping center which will be reserved for handicapped parking and the marking and signage will be installed as required in this section at the expense of the owner.

(Ord. No. 84-2028, § 1(42.94(3)), 4-17-84)

Sec. 44-294. - Proper identification on vehicles using spaces.

It shall be illegal to park any vehicle in a marked reserved space for handicapped persons unless such vehicle contains one (1) of the identifying licenses or characteristics set forth in section 44-291.

(Ord. No. 84-2028, § 1(42.94(4)), 4-17-84)

Sec. 44-295. - Misuse of spaces.

No person or corporation shall license or provide any other form of identification to indicate that a vehicle is for the use of a handicapped person unless a user of that vehicle is in fact handicapped, and no person driving any vehicle of a handicapped person which contains a handicapped identification shall park such vehicle in a reserved handicapped parking space unless the handicapped person is in the vehicle at the time parked, and a handicapped person is to exit from the vehicle while in such reserved parking area.

(Ord. No. 84-2028, § 1(42.94(5)), 4-17-84)

Secs. 44-296—44-315. - Reserved.

ARTICLE VI. - PARADES AND PROCESSIONS

- (a) It shall be unlawful to conduct any parade or procession, and for any person to participate in any parade or procession comprised of more than six (6) vehicles or a group of pedestrians more than eight (8) feet in width or more than forty (40) feet in length, under the direction of one (1) or more persons, except in accordance with a permit issued by the chief of police. Parade permits shall designate the street or streets such procession shall traverse and the hours of the day within which the same shall proceed. The chief of police may issue any such permit with the approval of the city manager; provided, however, that the military forces of the United States and the state, the personnel of the police and fire departments of the city and funeral processions shall be exempt from the provisions of this section.
- (b) An application for a permit to conduct a parade or procession shall be made to the chief of police of the city at least seventy-two (72) hours prior to the conducting of the same. The application shall contain the name and address of the applicant, the time, date and route of the proposed parade or procession and a description of any special equipment or vehicle to be used. If the information set forth on the application shall meet the requirements of this section, the chief of police shall issue a permit for the parade or procession; provided, no such permit shall be issued if the nature or conduct of any parade or procession might tend to be dangerous or harmful to the public health, safety and welfare of the residents of the city.

(Code 1973, § 42.52)

State Law reference— Similar provisions, RSMo 300.325.

Sec. 44-317. - Funeral processions—Definitions.

(a) As used in sections 44-317 through 44-320, the following terms mean:

- (1) *Funeral director*. A person licensed as a funeral director pursuant to the provisions of Chapter 333, R.S.Mo.
- (2) *Funeral lead vehicle or lead vehicle*. Any motor vehicle equipped with at least one (1) lighted circulating lamp exhibiting an amber or purple light or lens, or alternating flashing headlamps visible under normal atmospheric conditions for a distance of five hundred (500) feet from the front of the vehicle. A hearse or coach properly equipped may be a lead vehicle.
- (3) *Organized funeral procession*. Two (2) or more vehicles accompanying the remains of a deceased person from a funeral establishment, church, synagogue or other place where a funeral service has taken place to a cemetery, crematory, or other place of final disposition, or a funeral establishment, church, synagogue or other place where additional funeral services will be performed if directed by a licensed funeral director from a licensed establishment.

(Ord. No. 2000-3071, § 1, 2-8-2000)

Editor's note— Section 1 of Ord. No. 2000-3071, adopted Feb. 8, 2000, repealed §§ 44-317—44-319, and enacted similar provisions set out herein as §§ 44-317—44-320.

Sec. 44-318. - Same—Right-of-way.

- (a) Except as otherwise provided for in this subsection, pedestrians and operators of all other vehicles shall yield the right-of-way to any vehicle which is a part of an organized funeral procession.
- (b) Notwithstanding any traffic control device or right-of-way provision prescribed by state or local law, when the funeral lead vehicle in an organized funeral procession lawfully enters an intersection, all vehicles in the procession shall follow the lead vehicle through the intersection. The operator of each

vehicle in the procession shall exercise the highest degree of care toward any other vehicle or pedestrian on the roadway.

- (c) An organized funeral procession shall have the right-of-way at all intersections regardless of any traffic control device at such intersections, except that operators of vehicles in an organized funeral procession shall yield the right-of-way to any emergency vehicle pursuant to the provisions of section 304.022, R.S.Mo., or when directed to do so by a law enforcement officer.

(Ord. No. 2000-3071, § 1, 2-8-2000)

Note— See editor's note to § 44-317.

Sec. 44-319. - Same—Vehicles in procession.

- (a) All vehicles in an organized funeral procession shall follow the preceding vehicle in the procession as closely as is practical and safe under the conditions.
- (b) No person shall operate any vehicle as part of an organized funeral procession without the flashing emergency lights of such vehicle being lighted.
- (c) Toll-free passage shall be given on all toll bridges, tunnels, or other toll highways to all vehicles in an organized funeral procession.

(Ord. No. 2000-3071, § 1, 2-8-2000)

Note— See editor's note to § 44-317.

Sec. 44-320. - Same—Nonparticipants regulations; penalty for violation.

- (a) Any person who is not an operator of a vehicle in an organized funeral procession shall not:
 - (1) Drive between the vehicles comprising an organized funeral procession while such vehicles are in motion and have the flashing emergency lights lighted pursuant to subsection (b) of section 44-319, except when required to do so by a law enforcement officer or when such person is operating an emergency vehicle giving an audible or visual signal;
 - (2) Join a funeral procession for the purpose of securing the right-of-way granted in section 44-318; or
 - (3) Attempt to pass any vehicle in an organized funeral procession except where a passing lane has been specifically provided.
- (b) When an organized funeral procession is proceeding through a red signal light as permitted in section 44-318, a vehicle not in an organized funeral procession shall not enter the intersection unless such vehicle may do so without crossing the path of the funeral processions.
- (c) Any person violating the provisions of this section is guilty of an infraction which shall be punishable by a fine not to exceed one hundred dollars (\$100.00).

(Ord. No. 2000-3071, § 1, 2-8-2000)

Note— See editor's note to § 44-317.

Secs. 44-321—44-335. - Reserved.

ARTICLE VII. - PEDESTRIANS

Sec. 44-336. - Obedience to traffic-control devices.

Pedestrians shall be subject to traffic-control signals as prescribed in sections 44-227 and 44-229, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this

(Code 1973, § 42.45(d))

State Law reference— Similar provisions, RSMo 300.370.

Sec. 44-337. - Right-of-way at crosswalks.

- (a) When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.
- (b) The provisions of subsection (a) of this section shall not apply under the conditions stated in section 44-342(b).

(Code 1973, § 42.45(a))

State Law reference— Similar provisions, RSMo 300.375(1), (3).

Sec. 44-338. - Leaving curb suddenly or entering path of vehicle prohibited.

No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield the right-of-way.

State Law reference— Similar provisions, RSMo 300.375(2).

Sec. 44-339. - Use of right half of crosswalks.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

(Code 1973, § 42.45(e))

State Law reference— Similar provisions, RSMo 300.380.

Sec. 44-340. - Soliciting rides prohibited.

It shall be unlawful for any person to stand in a roadway for the purpose of soliciting a ride from the operator of any private vehicle.

(Code 1973, § 42.45(f))

Sec. 44-341. - Crossing at right angles.

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except in a crosswalk.

State Law reference— Similar provisions, RSMo 300.385.

Sec. 44-342. - When pedestrians to yield right-of-way.

- (a) Every pedestrian crossing a roadway at any point, other than within a marked crosswalk or within an unmarked crosswalk at an intersection, shall yield the right-of-way to all vehicles upon the roadway.
- (b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.
- (c) The foregoing rules in this section have no application under the conditions stated in section 44-343 when pedestrians are prohibited from crossing at certain designated places.

(Code 1973, § 42.45(c))

State Law reference— Similar provisions, RSMo 300.390.

Sec. 44-343. - Prohibited crossing places.

- (a) Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a crosswalk.
- (b) No pedestrian shall cross a roadway other than in a crosswalk in any business district.
- (c) No pedestrian shall cross a roadway other than in a crosswalk upon any street designated by the provisions of this Code or any other ordinance of the city.
- (d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to any such crossing movements.

State Law reference— Similar provisions, RSMo 300.395.

Sec. 44-344. - Manner of walking along roadway.

- (a) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.
- (b) Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

State Law reference— Similar provisions, RSMo 300.405.

Sec. 44-345. - Duty of drivers.

Notwithstanding the foregoing provisions of this article, every driver of a vehicle shall exercise the highest degree of care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

(Code 1973, § 42.45(g))

State Law reference— Similar provisions, RSMo 300.410.

Secs. 44-346—44-360. - Reserved.

ARTICLE VIII. - BICYCLES AND MOTORIZED BICYCLES^[9]

Footnotes:

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Cross reference— *Bicycles in parks, §§ 30-68, 30-69.*

Sec. 44-361. - Traffic laws applying to persons riding bicycles and motorized bicycles.

Every person riding a bicycle or motorized bicycle upon any roadway in the city shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of the state declaring the rules of the road applicable to vehicles or by the provisions of this chapter applicable to the drivers of vehicles, except as to special regulations in this article and except as to those provisions of state law and this chapter which, by their nature, can have no application.

(Code 1973, § 42.92.3(1))

State Law reference— Similar provisions, RSMo 307.400.

Sec. 44-362. - Manner of riding on bicycles.

It shall be unlawful for the operator of any bicycle, when upon a street, to carry any other person upon the handlebars, frame or any other part thereof not designed to carry passengers. It shall be unlawful for any person operating a bicycle to ride upon any part of such bicycle other than upon the permanent and regular seat attached thereto.

(Code 1973, § 42.50)

Sec. 44-363. - Manner of riding on motorized bicycles.

The operator of a motorized bicycle shall ride only astride the permanent and regular seat attached thereto, and shall not permit more than one (1) person to ride thereon at the same time, unless the motorized bicycle is designed to carry more than one (1) person. Any motorized bicycle designed to carry more than one (1) person must be equipped with a passenger seat and footrests for the use of a passenger.

State Law reference— Similar provisions, RSMo 300.345.

Sec. 44-364. - Riding on roadways.

Every person operating a bicycle or motorized bicycle at less than the posted speed or slower than the flow of traffic upon a street or highway may ride in the center of the right lane of travel or may ride to the right side of the roadway; such person may move into the left lane of travel only while in the process of making a left turn. Every person operating a bicycle or motorized bicycle on a roadway shall exercise due care when passing a standing vehicle or one proceeding in the same direction, when making turns, and when streets or lanes are too narrow to share with vehicles. Bicyclists may ride abreast only when not impeding other vehicles.

(Code 1973, § 42.92.3(2), (3); Ord. No. 96-2809, § 1, 1-9-96; Ord. No. 2012-3495, § 1, 6-26-12)

State Law reference— Similar provisions, RSMo 307.190.

Sec. 44-365. - Riding on sidewalks.

- (a) No person shall ride a bicycle upon the sidewalks on either side of South Florissant Road between the south line of Carson Road, as extended across South Florissant Road to its east side and the south line of Tiffin Avenue, as extended eastwardly across South Florissant Road to the east line of South Florissant Road.
- (b) Whenever any person is riding a bicycle upon a sidewalk, they shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing the pedestrian.
- (c) No person shall ride a motorized bicycle upon a sidewalk.

(Code 1973, § 42.92.4)

Cross reference— Streets, sidewalks and other public places, Ch. 40.

State Law reference— Similar provisions, RSMo 300.347.

Sec. 44-366. - Brakes required.

Every bicycle and motorized bicycle shall be equipped with brakes which will enable its driver to stop the bicycle or motorized bicycle within twenty-five (25) feet from a speed of ten (10) miles per hour on dry, level, clean pavement.

(Code 1973, § 42.92.2(1))

State Law reference— Similar provisions, RSMo 307.183.

Sec. 44-367. - Lights and reflectors.

Every bicycle and motorized bicycle when in use on a street or highway during the period from one-half (½) hour after sunset to one-half (½) hour before sunrise shall be equipped with the following:

- (1) A front-facing lamp on the front or carried by the rider which shall emit a white light visible at night under normal atmospheric conditions on a straight, level, unlighted roadway at five hundred (500) feet;
- (2) A rear-facing red reflector, at least two (2) square inches in reflective surface area, or a rear-facing red lamp, on the rear which shall be visible at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lower beams of vehicle headlights at six hundred (600) feet;
- (3) Reflective material and/or lights on any part of the bicyclist, pedals, crank arms, shoes or lower leg, visible from the front and the rear at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lawful lower beams of vehicle headlights at two hundred (200) feet;
- (4) Reflective material and/or lights visible on each side of the bicycle or bicyclist and visible at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lawful lower beams of vehicle headlights at three (300) feet. The provision of this subsection shall not apply to motorized bicycles which comply with National Highway Traffic and Safety Administration Regulations relating to reflectors on motorized bicycles.

(Code 1973, §§ 42.74(t), 42.92(2)—(5); Ord. No. 96-2809, § 1, 1-9-96)

State Law reference— Similar provisions, RSMo 307.185.

Sec. 44-368. - Equipment required on motorized bicycles.

No person shall operate a motorized bicycle on any roadway in this city unless it is equipped in accordance with the minimum requirements for construction and equipment of MOPEDS, Regulation VESC—17, approved July, 1977, as promulgated by the Vehicle Equipment Safety Commission, this state being a party thereto as provided in RSMo 307.250, and the regulation is hereby approved as provided in RSMo 307.260.

State Law reference— Similar provisions, RSMo 307.196.

Sec. 44-369. - Penalty for violations of article.

If any person under seventeen (17) years of age violates any provision of this article in the presence of a police officer such officer may impound the bicycle or motorized bicycle involved for a period not to exceed five (5) days upon issuance of a receipt to the child riding it or to its owner.

(Code 1973, § 42.95.5.2)

State Law reference— Similar provisions, RSMo 307.193.

Secs. 44-370—44-385. - Reserved.

ARTICLE IX. - EQUIPMENT^[10]

Footnotes:

— (10) —

State Law reference— *Vehicle equipment regulations, RSMo Ch. 307.*

DIVISION 1. - GENERALLY

Sec. 44-386. - Certain vehicles exempted.

The provisions of this article with respect to equipment and lights on vehicles shall not apply to agricultural machinery and implements, road machinery, road rollers, traction engines, motorized bicycles or farm tractors except as are made applicable in this article.

(Code 1973, § 42.74(b))

State Law reference— Similar provisions, RSMo 307.025.

Sec. 44-387. - License plates required.

- (a) It shall be unlawful for any person to operate or park a motor vehicle on any roadway in this city unless there is an unexpired, valid state license plate or temporary permit/tag registered to that vehicle and displayed on such vehicle in accordance with state law.
- (b) It shall be unlawful for any person to operate or park a motor vehicle within this city if such license plate or temporary permit/tag is wholly or partially obscured, is not reasonably clean, is not properly fastened or is not properly lit as required by state law.
- (c) No person shall operate or park a motor vehicle or trailer on which there is displayed on the front or rear thereof any other plate, temporary permit/ tag or placard bearing any number except the plate furnished by the state director of revenue or appropriate official of the issuing state, nor shall there be displayed on any motor vehicle or trailer a placard, sign or tag bearing the words "license lost," "license applied for," or words of similar import, as a substitute for such number plates or permit/tag.
- (d) No person shall alter a legitimate license plate or temporary permit/tag required and described in this section. No person shall produce, manufacture, sell or otherwise distribute a fraudulent, altered, or counterfeit license plate or temporary permit/tag intended to serve as a license plate or temporary permit/tag as required by this section. No person shall possess a fraudulent, altered or counterfeit license plate or temporary permit/tag or display such fraudulent, altered or counterfeit license plate or temporary permit/tag on any motor vehicle within this city.

(Code 1973, § 42.75; Ord. No. 2013-3513, § 1, 1-8-13)

State Law reference— Similar provisions, RSMo 301.130(7).

Sec. 44-388. - Brakes.

All motor vehicles, except motorcycles, shall be provided at all times with two (2) sets of adequate brakes, kept in good working order, and motorcycles shall be provided with one (1) set of adequate brakes kept in good working order.

(Code 1973, § 42.78)

State Law reference— Similar provisions, RSMo 307.170(3).

Sec. 44-389. - Mufflers required

The motors of all motor vehicles shall be fitted with properly attached mufflers of such a capacity or construction as to quiet of the maximum possible exhaust noise as completely as is done in modern gas engine passenger motor vehicles.

(Code 1973, § 42.77)

State Law reference— Similar provisions, RSMo 307.170(2).

Sec. 44-390. - Muffler cutouts prohibited.

Muffler cutouts shall not be used and no vehicle shall be driven in such a manner or condition that excessive and unnecessary noises shall be made by its machinery, motor, signaling device or other parts, or by any improperly loaded cargo. Any cutout or opening in the exhaust pipe between the motor and the muffler on any motor vehicle shall be completely closed and disconnected from its operating lever, and shall be so arranged that it cannot automatically open, or be opened or operated while such vehicle is in motion.

(Code 1973, § 42.77)

State Law reference— Similar provisions, RSMo 307.170(2).

Sec. 44-391. - Signaling devices.

Every motor vehicle shall be equipped with a horn, directed forward, or a whistle in good working order, capable of emitting a sound adequate in quantity and volume to give warning of the approach of the vehicle to other users of the street and to pedestrians. Any such signaling device shall be used for warning purposes only and shall not be used for making any unnecessary noise and no other sound-producing signaling device shall be used at any time except by emergency vehicles.

(Code 1973, § 42.76)

State Law reference— Similar provisions, RSMo 307.170(1).

Sec. 44-392. - Mirrors.

All motor vehicles which are so constructed or loaded that the operator cannot see the road behind his vehicle by looking back or around the side of the vehicle shall be equipped with a mirror so adjusted as to reveal the road behind and be visible from the operator's seat.

(Code 1973, § 42.79)

State Law reference— Similar provisions, RSMo 307.170(4).

Sec. 44-393. - Projections on vehicles.

All vehicles carrying poles or other objects, which project more than five (5) feet from the rear or front thereof shall, during the period when lights are required by this article, carry a red light at or near the rear end of the pole or other object so projecting. At other times a red flag or cloth, not less than sixteen (16) inches square, shall be displayed at the end of any such projection.

(Code 1973, § 42.80)

State Law reference— Similar provisions, RSMo 307.170(5).

Sec. 44-394. - Towlines.

When one vehicle is being towed by another, they shall be coupled by a line so that the two (2) vehicles will be separated by not more than fifteen (15) feet and there shall be displayed on the towline a white cloth or paper so that the same will be clearly visible to other users of the street. During the time lights are required by this article, the required lights shall be displayed by both vehicles.

(Code 1973, § 42.82)

State Law reference— Similar provisions, RSMo 307.170(6).

Sec. 44-395. - Mud flaps.

- (a) It shall be unlawful for any person to operate upon any roadway in the city a truck or truck-tractor trailer, without rear fenders, which is not equipped with mud flaps for the rear wheels. If mud flaps are used, they shall:
 - (1) Be wide enough to cover the full tread width of the tire being protected;
 - (2) Be so installed that they extend from the underside of the vehicle body in a vertical plane behind the rear wheels to within eight (8) inches of the ground;
 - (3) Be constructed of a rigid material or a flexible material which is of a sufficiently rigid character to provide adequate protection when the vehicle is in motion.
- (b) No provisions of this section shall apply to a motor vehicle in transit and in process of delivery equipped with temporary mud flaps.

State Law reference— Similar provisions, RSMo 307.015.

Sec. 44-396. - Wheels, tires.

- (a) It shall be unlawful for any person to move, drive or operate, or cause to be moved, driven or operated over and along any of the streets of the city any vehicle provided with metal or wooden cogs, cleats or ridges on the wheels or tires thereof, which are intended to prevent the skidding or slipping of such wheels, or any sort of cogs, cleats or ridges on the tires or wheels thereof, which in any way mark, break or mar the surface of such paved streets, or any vehicle running on the rim without rubber tires. The provisions of this section shall not apply to the use of tire chains of reasonable portions upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid.
- (b) Any person who violates the provisions of this subsection shall be liable for the amount of damage his vehicle causes to any street, bridge, culvert, sewer or other public property and any such vehicle shall be subject to a lien for the full amount of the damage.

(Code 1973, § 42.81)

State Law reference— Municipal authority to prohibit use of metal tires on certain streets, RSMo 304.120(2.5); restriction on use of metal tired vehicles, RSMo 304.250.

Sec. 44-397. - Width, height, length and weight restrictions.

- (a) *Width.* No vehicle operated upon any roadway in the city shall have a width, including load, in excess of ninety-six (96) inches, except clearance lights, rearview mirrors or other accessories required or permitted by federal or state law.
- (b) *Height.* No vehicle operated upon any roadway in the city shall have a height, including load, in excess of thirteen and one-half (13½) feet.
- (c)

Length. No single motor vehicle operated upon any roadway in the city shall have a length, including load, in excess of forty (40) feet; nor shall any combination of truck-tractor and semitrailer operated upon any roadway in the city have a length, including load, in excess of fifty-five (55) feet, except that such a combination specially designed to transport motor vehicles may itself have a length, including load, of sixty (60) feet; provided, however, that the restrictions in this subsection shall not apply to agricultural implements operated occasionally on the streets for short distances, or to vehicles temporarily transporting agricultural implements, road-making machinery or road materials, or to vehicles temporarily towing for repair purposes automobiles that have been disabled upon any roadway, provided that not more than one (1) automobile is being towed.

- (d) *Weight.* Except where otherwise provided in this division, it shall be unlawful for any person to drive or convey upon any roadway in the city any engine, tractor, truck, wagon or vehicle of any kind, except a tractor and semitrailer, operated by means of steam, gasoline, electricity or horsepower which, together with its load, weighs more than twenty-four thousand (24,000) pounds, or a tractor and semitrailer which, together with its load, weighs more than thirty-eight thousand (38,000) pounds, or any vehicle so equipped or loaded that the weight on any one (1) axle shall exceed sixteen thousand (16,000) pounds, or any vehicle so equipped or loaded that the weight on any one (1) wheel exceeds six hundred (600) pounds per inch width of tire upon any wheel concentrated upon the surface of the roadway (such width, in the case of rubber tires, both solid and pneumatic, to be measured between the flanges of the rim); provided, however, that the provisions of this subsection shall not apply to state or federal highways within the city or to trucks making local deliveries within the city limits.
- (e) The city traffic engineer may issue permits for the operation of vehicles exceeding the limits specified in this section. The permit shall specify the terms and conditions under which such vehicles may be operated, and designate the street or streets over which such vehicle may be operated and the hours of the day between which such operation shall be permitted. Each applicant for a permit as herein provided shall first pay to the director of finance a fee of one dollar (\$1.00), receipt for which shall be presented to the traffic engineer before such permit is issued.
- (f) The city traffic engineer shall have the right to post notices on each end of any bridge in the city, stating the maximum load that may be permitted on such bridge, and whenever by reason of thawing of frost or rains, or due to new construction or other reason, any street in the city shall be in a soft condition, the maximum gross weights of all vehicles, including load, mentioned in this section, including trucks, tractors, trailers, semitrailers and other vehicles therein mentioned to be operated on such street, may be limited by the city traffic engineer to such an amount and in such manner as will preserve the street under such conditions; and the city traffic engineer shall give or cause to be given due notice thereof by posting notices at convenient and public places along and near such streets subject to such regulations. It shall be unlawful for any person to fail to comply with the limitations or restrictions as to the use of such bridge or street as set forth in such notices.

(Code 1973, § 42.84)

State Law reference— Similar provisions, RSMo. 304.170, 304.180.

Sec. 44-398. - Protective headgear for operators and passengers on motorcycles.

- (a) Every person operating or riding as a passenger on a motorcycle upon any public roadway in the city shall wear protective headgear at all times while the motorcycle is in motion.
- (b)

Protective headgear mentioned in this section shall meet the standards and specifications that may now or hereafter be established by the state director of revenue relating to the same for operators and passengers on motorcycles.

(Code 1973, § 51.34(a))

State Law reference— Similar provisions, RSMo 302.020.

Sec. 44-399. - Restrictions on renting motorcycles.

- (a) It shall be unlawful for anyone to rent, lease or lend any motorcycle, to any person without first ascertaining that such person or passenger is equipped with a type of safety helmet approved by the chief of police.
- (b) No one shall rent, lease or lend any motorcycle to any person without first ascertaining that such person possesses a valid state operator's license for the operation of a motor vehicle upon the public streets.

(Code 1973, § 51.34(b), (c))

Sec. 44-400. - School buses to be marked.

Every bus used for the transportation of school children shall bear upon the front and rear thereon a plainly visible sign containing the words "school bus" in letters not less than eight (8) inches in height. Each bus shall have lettered on the rear in plain and distinct type the following: "State Law: Stop while bus is loading and unloading." Each school bus subject to the provisions of this section shall be equipped with a mechanical and electrical signaling device, which will display a signal plainly visible from the front and rear and indicating intention to stop.

State Law reference— Similar provisions, RSMo 304.050(2).

Sec. 44-401. - Commercial motor vehicles and trailers.

When being operated on any street or highway in the city, commercial motor vehicles and trailers shall be equipped with adequate and proper brakes, lighting equipment, signaling devices, steering mechanisms, horns, mirrors, windshield wipers, tires, wheels, exhaust system, glazing, air pollution control devices, fuel tank and any other safety equipment required by the state in such condition so as to obtain a certificate of inspection and approval as required by the provisions of RSMo 307.360.

State Law reference— Similar provisions, RSMo 307.170(8).

Sec. 44-402. - Seat belts.

- (a) As used in this section, the term "passenger car" means every motor vehicle designed for carrying ten (10) persons or less and used for the transportation of persons; except that, the term "passenger car" shall not include motorcycles, motorized bicycles, motor tricycles, and trucks with a licensed gross weight of twelve thousand (12,000) pounds or more. As used in this section, the term "truck" means a motor vehicle designed, used or maintained for the transportation of property.
- (b) Each driver, except persons employed by the United States Postal Service while performing duties for that federal agency which require the operator to service postal boxes from their vehicles, or which require frequent entry into and exit from their vehicles, and front seat passenger of a passenger car manufactured after January 1, 1968, operated on a street or highway in this city, and persons less than eighteen (18) years of age operating or riding in a truck, as defined in subsection (a) of this section, on a street or highway of this city shall wear a properly adjusted and fastened safety belt that

stopped, inspected, or detained solely to determine compliance with this subsection. The provisions of this section and section 44-403 shall not be applicable to persons who have a medical reason for failing to have a seat belt fastened about their body, nor shall the provisions of this section be applicable to persons while operating or riding a motor vehicle being used in agricultural work-related activities. Noncompliance with this subsection shall not constitute probable cause for violation of any other provision of law. The provisions of this subsection shall not apply to the transporting of children under sixteen (16) years of age, as provided in section 44-403.

- (c) Each driver of a motor vehicle transporting a child less than sixteen (16) years of age shall secure the child in a properly adjusted and fastened restraint under section 44-403.
- (d) No person under the age of eighteen (18) years of age shall be permitted or allowed to ride in the unenclosed bed of a truck with a licensed gross weight of less than twelve thousand (12,000) pounds operated on a street or highway in the city.
- (e) Except as otherwise provided for in section 44-403, each person who violates the provisions of subsection (b) of this section is guilty of an infraction for which a fine not to exceed ten dollars (\$10.00) may be imposed. All other provisions of law and court rules to the contrary notwithstanding, no court costs shall be imposed on any person due to a violation of subsection (b) of this section.
- (f) Each person who violates the provisions of subsection (d) of this section is guilty of an ordinance violation punishable under the general penalty provisions of this Code.
- (g) If there are more persons than there are seat belts in the enclosed area of a motor vehicle, then the passengers who are unable to wear seat belts shall sit in the area behind the front seat of the motor vehicle unless the motor vehicle is designed only for a front-seated area. The passenger or passengers occupying a seat location referred to in this subsection is not in violation of this section. This subsection shall not apply to passengers who are accompanying a driver of a motor vehicle who is licensed under RSMo 302.178.

(Ord. No. 94-2741, § 1, 10-25-94; Ord. No. 98-2986, § 1, 6-23-98; Ord. No. 2010-3424, § 2, 3-23-10)

Sec. 44-403. - Transporting children under sixteen years of age—Restraint systems.

- (a) As used in this section, the following terms shall mean:
 - (1) "Child booster seat" means a seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 CFR 571.213, as amended, that is designed to elevate a child to properly sit in a federally approved safety belt system.
 - (2) "Child passenger restraint system" means a seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 CFR 571.213, as amended, and which is either permanently affixed to a motor vehicle or is affixed to such vehicle by a safety belt or a universal attachment system.
 - (3) "Driver" means a person who is in actual physical control of a motor vehicle.
- (b) Every driver transporting a child under the age of sixteen (16) years shall be responsible, when transporting such child in a motor vehicle operated by that driver on the streets or highways of this state, for providing for the protection of such child as follows:
 - (1) Children less than four (4) years of age, regardless of weight, shall be secured in a child passenger restraint system appropriate for that child;
 - (2) Children weighing less than forty (40) pounds, regardless of age, shall be secured in a child passenger restraint system appropriate for that child;

Children at least four (4) years of age but less than eight (8) years of age, who also weigh at least forty (40) pounds but less than eighty (80) pounds, and who are also less than four (4) feet, nine (9) inches tall, shall be secured in a child passenger restraint system or booster seat appropriate for that child;

- (4) Children at least eighty (80) pounds or children more than four (4) feet, nine (9) inches in height shall be secured by a vehicle safety belt or booster seat appropriate for that child;
- (5) A child who otherwise would be required to be secured in a booster seat may be transported in the back seat of a motor vehicle while wearing only a lap belt if the back seat of the motor vehicle is not equipped with a combination lap and shoulder belt for booster seat installation;
- (6) When transporting children in the immediate family when there are more children than there are seating positions in the enclosed area of a motor vehicle, the children who are not able to be restrained by a child safety restraint device appropriate for the child shall sit in the area behind the front seat of the motor vehicle unless the motor vehicle is designed only for a front seat area. The driver transporting children referred to in this subsection is not in violation of this section.

This subsection shall only apply to the use of a child passenger restraint system or vehicle safety belt for children less than sixteen (16) years of age being transported in a motor vehicle.

- (c) Any driver who violates subsection (b)(1), (2), (3) or (4) of this section is guilty of an infraction and, upon conviction, may be punished by a fine of not more than fifty dollars (\$50.00) and court costs. Any driver who violates subsection (b)(5) of this section shall be subject to the penalty in subsection (e) of section 44-402. If a driver receives a citation for violating subsection (b)(1), (2), or (3) of this section, the charges shall be dismissed or withdrawn if the driver prior to or at his or her hearing provides evidence of acquisition of a child passenger restraint system or child booster seat which is satisfactory to the court or the party responsible for prosecuting the driver's citation.
- (d) The provisions of this section shall not apply to any public carrier for hire. The provisions of this section shall not apply to students four (4) years of age or older who are passengers on a school bus designed for carrying eleven (11) passengers or more and which is manufactured or equipped pursuant to Missouri Minimum Standards for School Buses as school buses are defined in RSMo 301.010.

(Ord. No. 2010-3424, § 3, 3-23-10)

Editor's note— Ord. No. 2010-3424, adopted March 23, 2010, renumbered the former § 44-403 as § 44-405, and enacted a new § 44-403 as set out herein. The historical notation has been retained with the amended provisions for reference purposes.

Sec. 44-404. - Vision-reducing material applied to windshield or windows.

- (a) Any person may operate a motor vehicle with front sidewing vents or windows located immediately to the left and right of the driver that have a sun screening device, in conjunction with safety glazing material, that has a light transmission of thirty-five (35) percent or more plus or minus three (3) percent and a luminous reflectance of thirty-five (35) percent or less plus or minus three (3) percent. Except as provided in subsection (c) of this section, any sun-screening device applied to front sidewing vents or windows located immediately to the left and right of the driver in excess of the requirements of this section shall be prohibited without a permit pursuant to a physician's prescription as described below. A permit to operate a motor vehicle with front sidewing vents or windows located immediately to the left and right of the driver that have a sun-screening device, in conjunction with safety glazing

requirements of this subsection, may be issued by the department of public safety to a person having a serious medical condition which requires the use of a sun-screening device if the permittee's physician prescribes its use. The director of the department of public safety shall promulgate rules and regulations for the issuance of the permit. The permit shall allow operation of the vehicle by any titleholder or relative within the second degree by consanguinity or affinity, which shall mean a spouse, each grandparent, parent, brother, sister, niece, nephew, aunt, uncle, child, and grandchild of a person, who resides in the household. Except as provided in subsection (b) of this section, all sun-screening devices applied to the windshield of a motor vehicle are prohibited.

- (b) This section shall not prohibit labels, stickers, decalcomania, or informational signs on motor vehicles or the application of tinted or solar screening material to recreational vehicles as defined in RSMo 700.010, provided that such material does not interfere with the driver's normal view of the road. This section shall not prohibit factory-installed tinted glass, the equivalent replacement thereof or tinting material applied to the upper portion of the motor vehicle's windshield which is normally tinted by the manufacturer of motor vehicle safety glass.
- (c) Any vehicle licensed with a historical license plate shall be exempt from the requirements of this section.
- (d) Any person who violates the provisions of this section is guilty of an ordinance violation.

(Ord. No. 2010-3425, § 1, 3-23-10)

Sec. 44-405. - Display of state inspection sticker on motor vehicles.

It shall be unlawful for any person to operate a motor vehicle on the streets of the city or for any owner of a motor vehicle to have his motor vehicle parked on the streets of the city unless there is attached to the motor vehicle a current state safety inspection sticker as required by Section 307.350 of the Revised Statutes of the State of Missouri.

(Ord. No. 88-2280, § 1, 4-19-88; Ord. No. 2010-3424, § 1, 3-23-10)

See the editor's note to § 44-403.

Sec. 44-406. - State safety and emissions testing required; display of inspection stickers required.

- (a) It shall be unlawful for any person to operate a motor on the streets of the city or for any owner of a motor vehicle to have his motor vehicle parked on the streets of the city unless such vehicle has been subject to all safety and emissions testing as required for such vehicle under state law.
- (b) All motor vehicles required to undergo safety and emissions testing shall display current inspection stickers as required by state law.
- (c) No person shall alter a legitimate document, report, certificate or sticker evidencing the safety and emissions inspections required and described in this section. No person shall produce, manufacture, sell or otherwise distribute a fraudulent, altered, or counterfeit document, report, certificate or sticker intended to serve as a safety or emissions inspection report, certificate or sticker. No person shall possess a fraudulent, altered or counterfeit document, report, certificate or sticker intended to serve as a safety or emissions inspection report, certificate or sticker.

(Ord. No. 2012-3494, § 1, 6-26-12)

Editor's note— Ord. No. 2012-3494, § 1, adopted June 26, 2012, set out provisions intended for use as § 44-403. Inasmuch as there were already provisions so designated, and at the editor's discretion, these provisions have been included as § 44-406.

Secs. 44-407—44-415. - Reserved.

DIVISION 2. - LIGHTS^[11]

Footnotes:

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State Law reference— *Light regulations, RSMo 307.020 et seq.*

Sec. 44-416. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Approved shall mean approved by the state director of revenue and, when applied to lamps and other illuminating devices, means that any such lamps and devices must be in good working order.

Auxiliary lamp shall mean an additional lighting device on a motor vehicle used primarily to supplement the head lamps in providing general illumination ahead of a vehicle.

Head lamp shall mean a major lighting device capable of providing general illumination ahead of a vehicle.

Mounting height shall mean the distance from the center of the lamp to the surface on which the vehicle stands.

Multiple-beam head lamps shall mean head lamps or similar devices arranged so as to permit the driver of the vehicle to use one (1) of two (2) or more distributions of light on the road.

Reflector shall mean an approved device designed and used to give an indication by reflected light.

When lighted lamps are required shall mean at any time from a half-hour after sunset to a half-hour before sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of five hundred (500) feet ahead.

(Code 1973, § 42.74(a))

Cross reference— Definitions and rules of construction generally, § 1-2.

State Law reference— Similar definitions, RSMo 307.020.

Sec. 44-417. - Head lamps required.

- (a) Except as otherwise provided in this division, every motor vehicle other than a motor-drawn vehicle and other than a motorcycle shall be equipped with at least two (2) approved head lamps mounted at the same level with at least one (1) on each side of the front of the vehicle.
- (b) Every motorcycle shall be equipped with at least one and not more than two (2) approved head lamps. Every motorcycle equipped with a sidecar or other attachment shall be equipped with a lamp on the outside limit of the attachment capable of displaying a white light to the front.

(Code 1973, § 42.74(d))

State Law reference— Similar provisions, RSMo 307.045.

No person shall drive, move, park or be in custody of any vehicle or combination of vehicles on any street during the times when lighted lamps are required unless his vehicle or combination of vehicles displays lighted lamps and illuminating devices as required by this division.

(Code 1973, § 42.74(c))

State Law reference— Similar provisions, RSMo 307.040.

Sec. 44-419. - Focus, candlepower.

No person shall use on any vehicle any approved electric lamp or similar device unless the light source of the lamp or device complies with the conditions of approval as to focus and rated candlepower.

(Code 1973, § 42.74(c))

State Law reference— Similar provisions, RSMo 307.040.

Sec. 44-420. - Permissible substitutes for head lamps.

Motor vehicles need not be equipped with approved head lamps if, during the times when lighted lamps are required, the vehicle is equipped with two (2) lighted lamps on the front thereof displaying white or yellow lights without glare capable of revealing persons and objects seventy-five (75) feet ahead; provided, however, that no such motor vehicle shall be operated at a speed in excess of twenty (20) miles per hour during the times when lighted lamps are required.

(Code 1973, § 42.74(e))

State Law reference— Similar provisions, RSMo 307.050.

Sec. 44-421. - Arrangement of single-beam head lamps.

Approved single-beam head lamps shall be so aimed that when the vehicle is not loaded none of the high-intensity portion of the light shall at a distance of twenty-five (25) feet ahead project higher than a level of five (5) inches below the level of the center of the lamp from which it comes, and in no case higher than forty-two (42) inches above the level on which the vehicle stands at a distance of seventy-five (75) feet ahead. The intensity shall be sufficient to reveal persons and vehicles at a distance of at least two hundred (200) feet.

(Code 1973, § 42.74(f))

State Law reference— Similar provisions, RSMo 307.055.

Sec. 44-422. - Arrangement of multibeam head lamps.

Except as otherwise provided in this division, the head lamps or the auxiliary lamps or combination thereof on motor vehicles other than motorcycles or motor-driven cycles shall be so arranged that the driver may select at will between distributions of light projected to different elevations and such lamps may, in addition, be so arranged that any such selection can be made automatically, subject to the following limitations:

- (1) There shall be an uppermost distribution of light, or composite beam, so aimed and of such an intensity as to reveal persons and vehicles at a distance of at least three hundred fifty (350) feet ahead for all conditions of loading;

There shall be a lowermost distribution of light, or composite beam so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred (100) feet ahead; and on a straight level road under any condition of loading, none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

(Code 1973, § 42.74(g))

State Law reference— Similar provisions, RSMo 307.060.

Sec. 44-423. - New vehicles shall have beam indicator.

Every new motor vehicle registered in this state after January 1, 1942, which has multiple-beam road lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of lights from the headlamps is in use, and shall not otherwise be lighted. Any such indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

(Code 1973, § 42.74(h))

State Law reference— Similar provisions, RSMo 307.065.

Sec. 44-424. - Dimming of lights.

Every person driving a motor vehicle equipped with multiple-beam road lighting equipment, during the time when lighted lamps are required, shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations: Whenever the driver of a vehicle approaches an oncoming vehicle within five hundred (500) feet, or is within three hundred (300) feet to the rear of another vehicle traveling in the same direction, the driver shall use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the other driver, and in no case shall the high-intensity portion which is projected to the left of the prolongation of the extreme left side of the vehicle be aimed higher than the center of the lamp from which it comes at a distance of twenty-five (25) feet ahead, and in no case higher than a level of forty-two (42) inches above the level upon which the vehicle stands at a distance of seventy-five (75) feet ahead.

(Code 1973, § 42.74(i))

State Law reference— Similar provisions, RSMo 307.070.

Sec. 44-425. - Tail lamps, reflectors.

(a) Every motor vehicle and every motor-drawn vehicle shall be equipped with at least two (2) rear lamps, not less than fifteen (15) inches or more than forty-eight (48) inches above the ground upon which the vehicle stands, which when lighted will exhibit a red light plainly visible from a distance of five hundred (500) feet to the rear; provided, however, that the rear lamps may be mounted higher than forty-eight (48) inches on any vehicle carrying inflammable liquids as cargo. Either such rear lamps or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration marker and render it clearly legible from a distance of fifty (50) feet to the rear. When the rear registration marker is illuminated by an electric lamp other than the required rear lamps, all such lamps shall be turned on or off only by the same control switch at all times.

(b)

Every motorcycle registered in this state, when operated on a street, shall also carry at the rear, either as part of the rear lamp or separately, at least one approved red reflector, which shall be of such size and characteristics and so maintained as to be visible during the times when lighted lamps are required from all distances within three hundred (300) feet to fifty (50) feet from the vehicle when directly in front of a motor vehicle displaying lawful undimmed head lamps.

- (c) Every new passenger car, new commercial motor vehicle, motor-drawn vehicle and omnibus with a capacity of more than six (6) passengers registered in this state, when operated on a street, shall also carry at the rear at least two (2) approved red reflectors, at least one at each side, so designed, mounted on the vehicle and maintained as to be visible during the times when lighted lamps are required from all distances within five hundred (500) to fifty (50) feet from such vehicle when directly in front of a motor vehicle displaying lawful undimmed head lamps. Every such reflector shall meet the requirements of this division and shall be mounted upon the vehicle at a height not to exceed sixty (60) inches nor less than twenty-four (24) inches above the surface upon which the vehicle stands.

(Code 1973, § 42.74(j))

State Law reference— Similar provisions, RSMo 307.075.

Sec. 44-426. - Auxiliary lamps.

Any motor vehicle may be equipped with not to exceed three (3) auxiliary lamps mounted on the front at a height not less than twelve (12) inches nor more than forty-two (42) inches above the level surface upon which the vehicle stands.

(Code 1973, § 42.74(k))

State Law reference— Similar provisions, RSMo 307.080.

Sec. 44-427. - Cowl, fender lamps.

Any motor vehicle may be equipped with not more than two (2) side cowl or fender lamps which shall emit a white or yellow light without glare.

(Code 1973, § 42.74(l))

State Law reference— Similar provisions, RSMo 307.085.

Sec. 44-428. - Running board lamps.

Any motor vehicle may be equipped with not more than one (1) running board courtesy lamp on each side thereof which shall emit a white or yellow light without glare.

(Code 1973, § 42.74(l))

State Law reference— Similar provisions, RSMo 307.085.

Sec. 44-429. - Backup lamps.

Any motor vehicle may be equipped with a backup lamp, either separately or in combination with another lamp, but no such backup lamp shall be continuously lighted when the motor vehicle is in forward motion.

(Code 1973, § 42.74(l))

State Law reference— Similar provisions, RSMo 307.085.

Sec. 44-430. - Spot lamps.

Any motor vehicle may be equipped with not to exceed one (1) spot lamp but every lighted spot lamp shall be so aimed and used as not to be dazzling or glaring to any person.

(Code 1973, § 42.74(m))

State Law reference— Similar provisions, RSMo 307.090.

Sec. 44-431. - Arrangement of lamps, other than head lamps.

Any lighted lamp or illuminating device upon a motor vehicle other than head lamps, spot lamps, front direction signals or auxiliary lamps which projects a beam of light of an intensity greater than three hundred (300) candlepower shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five (75) feet from the vehicle.

(Code 1973, § 42.74(o))

State Law reference— Similar provisions, RSMo 307.100.

Sec. 44-432. - Colors of various lamps.

Head lamps, when lighted, shall exhibit lights substantially white in color; auxiliary lamps, cowl lamps and spot lamps, when lighted, shall exhibit lights substantially white, yellow or amber in color.

(Code 1973, § 42.74(n))

State Law reference— Similar provisions, RSMo 307.095.

Sec. 44-433. - Limitation on number of lamps lighted at one time.

At the times when lighted lamps are required, at least two (2) lighted lamps shall be displayed, one (1) on each side of the front of every motor vehicle except a motorcycle and except a motor-drawn vehicle except when the vehicle is parked subject to the provisions governing lights on parked vehicles. Whenever a motor vehicle equipped with head lamps as in this division required is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of an intensity greater than three hundred (300) candlepower, not more than a total of four (4) of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway.

(Code 1973, § 42.74(p))

State Law reference— Similar provisions, RSMo 307.105.

Sec. 44-434. - Restriction on use of red lights.

No person shall drive or move any vehicle or equipment, except a school bus when used for school purposes or an emergency vehicle upon any street or highway, with any lamp or device thereon displaying a red light visible from directly in front thereof.

(Code 1973, § 42.74(n))

State Law reference— Similar provisions, RSMo 307.095.

Sec. 44-435. - Flashing signals.

Alternately flashing warning signals may be used on school buses when used for school purposes and on motor vehicles when used to transport United States mail from post offices to boxes of addressees thereof and on authorized emergency vehicles, but are prohibited on other motor vehicles, motorcycles and motor-drawn vehicles except as a means for indicating a right or left turn.

(Code 1973, § 42.74(o))

State Law reference— Similar provisions, RSMo 307.175.

Sec. 44-436. - Horse-drawn vehicles.

Any person who shall place or drive, or cause to be placed or driven, upon or along any roadway of the city any horse-driven vehicle whatsoever, whether in motion or at rest, shall, after sunset to one-half hour before sunrise, have attached to every such vehicle at the rear thereof a red taillight or a red reflecting device of not less than three (3) inches in diameter of effective area or its equivalent in area. When any such device shall consist of reflecting buttons there shall be no less than seven (7) buttons covering an area equal to a circle with a three-inch diameter. The total subtended effective angle of reflection of every such device shall be no less than sixty (60) degrees and the spread and efficiency of the reflected light shall be sufficient for the reflected light to be visible to the driver of any motor vehicle approaching such horse-drawn vehicle from the rear of a distance of not less than five hundred (500) feet.

(Code 1973, § 42.74(5))

Cross reference— Livestock, § 6-21 et seq.

State Law reference— Similar provisions, RSMo 307.125.

Sec. 44-437. - Parked vehicles.

- (a) Whenever a vehicle is lawfully parked upon any roadway in this city during the hours between a half-hour after sunset and a half-hour before sunrise and if there is sufficient light to reveal any person or object within a distance of five hundred (500) feet upon any such street or highway, no lights need be displayed upon any such parked vehicle.
- (b) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half-hour after sunset and a half-hour before sunrise and there is not sufficient light to reveal any person or object within a distance of five hundred (500) feet upon the highway, a vehicle so parked or stopped shall be equipped with one (1) or more lamps meeting the following requirements: At least one (1) lamp shall display a white or amber light visible from a distance of five hundred (500) feet to the front of the vehicle, and the same lamp or at least one (1) other lamp shall display a red light visible from a distance of five hundred (500) feet to the rear of the vehicle, and the location of the lamps shall always be such that at least one (1) lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic.
- (c) Any lighted head lamp upon a parked vehicle shall be depressed or dimmed.
- (d) The provisions of this section shall not apply to a motor-driven cycle.

(Code 1973, § 42.74(q))

State Law reference— Similar provisions, RSMo 300.435, 307.110.

Sec. 44-438. - Other vehicles; how lighted.

All vehicles, including agricultural machinery or implements, road machinery, road rollers, traction engines and farm tractors not in this division specifically required to be equipped with lamps, shall be equipped during the times when lighted lamps are required with at least one (1) lighted lamp or lantern exhibiting a white light visible from a distance of five hundred (500) feet to the front of the vehicle and with a lamp or lantern exhibiting a red light visible from a distance of five hundred (500) feet to the rear, and all such lamps and lanterns shall exhibit lights to the sides of any vehicle.

(Code 1973, § 42.74(r))

State Law reference— Similar provisions, RSMo 307.115.

Secs. 44-439—44-455. - Reserved.

ARTICLE X. - ACCIDENTS^[12]

Footnotes:

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Cross reference— *Police, § 33-16 et seq.*

Sec. 44-456. - Leaving scene of accident.

No person operating or driving a vehicle on any roadway in this city, knowing that an injury has been caused to a person or damage has been caused to property due to his own culpability or to accident, shall leave the place of the injury, damage or accident without stopping and giving his name, residence including city and street number, motor vehicle number and chauffeur's or registered operator's number, if any, to the injured party, or to the operator or owner of the damaged vehicle, or to a police officer or if no police officer is in the vicinity, then to the nearest police station or judicial officer.

(Code 1973, § 42.29)

State Law reference— Similar provisions, RSMo 577.060.

Sec. 44-457. - Notice to police.

- (a) The driver of a vehicle involved in an accident resulting in injury to or death of any person or total property damage to an apparent extent of five hundred dollars (\$500.00) or more to one (1) person shall immediately by the quickest means of communication give notice of the accident to the police department if the accident occurs within the city.
- (b) Whenever the driver of a vehicle is physically incapable of giving immediate notice of an accident as required in subsection (a) and there was another occupant in the vehicle at the time of the accident capable of doing so, that occupant shall give, or cause to be given, the notice not given by the driver.

State Law reference— Similar provisions, RSMo 300.110, 300.120(1).

Sec. 44-458. - Written report to police.

- (a) The driver of a vehicle which is in any manner involved in an accident within this city resulting in bodily injury to or death of any person or total property damage to an apparent extent of five hundred dollars (\$500.00) or more to one person shall, within five (5) days after the accident, forward a written report of the accident to the police department. The provisions of this section shall not be applicable when the accident has been investigated at the scene by a police officer while the driver was present thereat.

Whenever the driver is physically incapable of making a written report of an accident as required in subsection (a) and the driver is not the owner of the vehicle, then the owner of the vehicle involved in the accident shall, within five (5) days after the accident, make the report not made by the driver.

State Law reference— Similar provisions, RSMo 300.115, 300.120(2).

Sec. 44-459. - Confidential nature of reports.

- (a) All written reports made by persons involved in accidents or by garages shall be without prejudice to the individual so reporting and shall be for the confidential use of the police or other governmental agencies having use for the records for accident prevention purposes, except that the police or other governmental agencies may disclose the identity of a person involved in an accident when their identity is not otherwise known or when they deny their presence at the accident.
- (b) No written reports forwarded under the provisions of this section shall be used as evidence in any trial, civil or criminal, arising out of an accident except that the police shall furnish upon demand of any party to any such trial, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the police in compliance with law, and, if any such report has been made, the date, time and location of the accident, the names and addresses of the drivers, the owners of the vehicles involved, and the investigating officers.

State Law reference— Similar provisions, RSMo 300.125.

Sec. 44-460. - Filing, use of reports.

The police department shall maintain a suitable system of filing traffic accident reports. Accident reports or cards referring to them shall be filed alphabetically by location. Any such reports shall be available for the use and information of the city traffic engineer.

State Law reference— Similar provisions, RSMo 300.040.

Sec. 44-461. - Investigations.

It shall be the duty of all police officers to investigate traffic accidents, to arrest and to assist in the prosecution of those persons charged with violations of law causing or contributing thereto.

State Law reference— Similar provisions, RSMo 300.030.

Sec. 44-462. - Traffic accident studies.

Whenever the accidents at any particular location become numerous, the police department shall cooperate with the city traffic engineer in conducting studies of any such accidents and in determining remedial measures.

State Law reference— Similar provisions, RSMo 300.035.

Secs. 44-463—44-480. - Reserved.

ARTICLE XI. - RAILROADS

Sec. 44-481. - Railroads blocking streets.

It shall be unlawful for the directing officer or the operator of any railroad train to direct the operation of or to operate the same in such a manner as to prevent the use of any street for purposes of travel for a period of time longer than five (5) minutes; provided that this section shall not apply to a moving train or to one (1) stopped because of an emergency or for repairs necessary before it can proceed safely.

(Code 1973, § 51.19)

State Law reference— Similar provisions, RSMo 300.360.

Secs. 44-482—44-500. - Reserved.

ARTICLE XII. - TRAFFIC SCHEDULES

Sec. 44-501. - Truck routes.

In accordance with section 44-5, the following named streets shall be designated as through truck streets and shall be used by truck- type vehicles in passing through the city, and when not making local deliveries in the city:

Airport Road, Hereford Avenue and Chambers Road from west city limits to east city limits;

Florissant Road from north city limits to south city limits;

West Florissant Avenue from north city limits to south city limits.

(Code 1973, § 42.85)

Sec. 44-502. - Speed limits.

In accordance with section 44-121, certain speed limits shall apply in the following areas as indicated:

45 miles per hour:

Pershall Road from the east line of Old Florissant Road to the east line of Old Halls Ferry Road.

35 miles per hour:

Chambers Road, from the east city limits to the east line of Elizabeth Avenue;

Florissant Road, from the north city limits to the prolongation of the center line of Hereford Avenue;

Hereford Avenue, from the east line of Florissant Road to the west line of Elizabeth Avenue;

New Halls Ferry Road, from the north city limits, southeastward to the intersection with the prolongation southeastward of the west line of Old Halls Ferry Road;

South Florissant Road, from the south city limits to Suburban Avenue;

West Florissant Avenue, from the north city limits, which is also the south city limits of Dellwood, to the south city limits of the city.

30 miles per hour:

Airport Road, from the west line of Florissant Road to the west city limits;

Bermuda Avenue, from south line of Paul Avenue to south city limits;

Ferguson Avenue, from Elizabeth Avenue to West Florissant Avenue;

Hudson Road, from the east line of Old Florissant Road (Elizabeth Avenue) eastward to the west line of West Florissant Avenue;

Old Florissant Road (Elizabeth Avenue) from the north line of the Village of Calverton, which is also a south line of the city, to the north city limits line of the city, which north line of the city is 60 feet south of the center line of Interstate I-270.

15 miles per hour:

In all public parks and municipally-owned property where parking and driving is permitted, except on streets through parks which are dedicated for public use.

(Code 1973, § 42.26(e); Ord. No. 98-2980, § 1, 4-28-98; Ord. No. 2013-3527, § 1, 5-28-13)

Sec. 44-503. - Congested districts.

In accordance with section 44-122, the following described portions of streets are designated as congested districts:

Clark Avenue, between the south line of Carson Road and the north line of Tiffin Avenue.

Hereford Avenue, between the west line of Elizabeth Avenue and the east line of Florissant Boulevard.

January Avenue, between the west line of Florissant Boulevard and the east line of Dade Avenue and the east line of Dade Avenue projected northwardly.

Wesley Avenue, between the west line of Clark Avenue and the east line of Georgia Avenue.

(Code 1973, § 42.02)

Sec. 44-504. - School speed limit zones.

In accordance with section 44-122, those streets and parts of streets described below are designated as school zones. The twenty (20) miles per hour speed limit requirement for school zones as established in section 44-122 shall be in effect on all days when school is in session between the hours of 7:00 a.m. and 4:30 p.m.

Carson Road, from a point 200 feet east of Clark Avenue to a point 200 feet west of Clark Avenue;

Carson Road, from a point 200 feet east of Georgia Avenue to a point 200 feet west of Georgia Avenue;

Chambers Road, from the east city limits to a point 300 feet west of Day Drive;

Chambers Road, from a point 300 feet east of Millman Avenue to Elizabeth Avenue;

Church Street, from a point 200 feet east of Maple to a point 300 feet west of Maple;

Clark Avenue, from a point 200 feet north of Wesley Avenue to a point 200 feet south of Wesley Avenue;

Dade Avenue, from a point 200 feet south of January Avenue to January Avenue.

Darst, from Elizabeth to Hartnett;

Elizabeth Avenue, from a point 200 feet north of Chambers Road to a point 200 feet south of Chambers Road;

Elizabeth Avenue, from a point 200 feet north of Powell Avenue to a point 200 feet south of Powell Avenue;

Georgia Avenue, from a point 200 feet south of Wesley Avenue to a point 200 feet north of Wesley Avenue;

Hereford Avenue, from Elizabeth Avenue to a point 200 feet west of Elizabeth Avenue;

January Avenue, from a point 200 feet west of Dade Avenue to a point 600 feet east of Dade Avenue;

Millman, from Darst to Chambers;

Powell Avenue, from a point 228 feet west of North Elizabeth Avenue to a point 200 feet west of Gerald;

Robert Avenue, from a point 200 feet east of Gerald Avenue to a point 300 feet west of Nancy Place;

Wesley Avenue, from a point 200 feet west of Georgia Avenue to the west line of Georgia Avenue.

(Code 1973, § 42.03; Ord. No. 85-2111, § 1, 11-12-85; Ord. No. 91-2483, § 1, 9-25-91; Ord. No. 94-2731, § 1, 8-30-94; Ord. No. 98-2971, § 1, 1-13-98; Ord. No. 2002-3164, § 1, 11-26-02)

Sec. 44-505. - Through streets.

In accordance with section 44-145, the following streets are designated as through streets:

Street	From	To	Exception
Airport	Florissant Blvd.	West city limits	Dade
Bermuda	South city limits	Paul Ave.	
Brotherton	S. Florissant Rd.	Hern Ave.	
Carson Rd.	Florissant Blvd.	West city limits	
Chambers Rd.	East city limits	Elizabeth	
Clark Ave.	Suburban	Airport	Wesley Ave.
			Carson Rd.

Darst Rd.	Hartnett Ave.	N. Florissant Rd.	Elizabeth
Elizabeth Ave. (Old Florissant Rd.)	Wabash Railroad right-of-way	North city limits	Darst
Ferguson Ave.	Elizabeth Ave.	Forestwood Dr.	
Ferguson Ave.	Elizabeth Ave.	W. Florissant	
Florissant	South city limits	North city limits	Suburban Paul Ave.
Forestwood	Chambers Rd.	Ferguson Ave.	Highmont
Frost	N. Florissant Rd.	West city limits	Ford Hentschel
Georgia	Suburban Ave.	Carson Rd.	
Glen Owen	North city limits	South city limits	
Hartnett Ave. Centre Ave.	Chambers Rd.	Ferguson Ave.	
Harvey Ave.	Suburban Ave.	Carson Road	
Hereford	Elizabeth Ave.	Florissant Blvd.	
Highmont	W. Florissant Ave.	Hartnett	Forestwood
January	N. Florissant Rd.	West city limits	
New Halls Ferry	South city limits	Interstate 270	
Paul Ave.	Elizabeth Ave.	S. Florissant Rd.	Bermuda Ave. northbound traffic stops at Wabash Railroad right-of-way
Pershall	East city limits	West city limits	
Robert	Averill Ave.	N. Florissant Rd.	Coppinger
Suburban	S. Florissant Rd.	West city limits	South Clark and South Harvey
Woodstock	Wabash Railroad	S. Florissant	

	right-of-way	
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(Code 1973, ch. 42, sched. A; Ord. No. 87-2212, § 1, 6-23-87)

Sec. 44-506. - Stop intersections—Primary.

In accordance with section 44-147, the following intersections are designated as stop intersections and traffic approaching such intersection shall stop as indicated:

Through Street	Traffic on Following Streets Stop
Airport	Abston
Airport	Clark
Airport	Henquin (2 stop signs North and South)
Airport	Margo
Airport	Newell
Airport	N. Marguerite (2 stop signs North and South
Airport	Wabash (2 stop signs, in island, North and South)
Airport	Wabash (north side)
Almeda	Entrances to parking lots
Bahama	Glenark Dr.
Bayview	Renshaw
Bermuda	Mintert Ind.
Bermuda	Mintert Manor
Brotherton	Arline
Brotherton	Elliott
Brotherton	Elsie

Brotherton	Hern (2 stop signs North and South)
Brotherton	North Hills
Brotherton	Thomas
Carson	Beacon
Carson	Harvey (2 stop signs North and South)
Carson	Miller
Carson	N. Marguerite
Carson	Spring
Chambers	Ames
Chambers	Argent
Chambers	Averill
Chambers	Ballmann
Chambers	Coppinger
Chambers	Day
Chambers	Delworth
Chambers	Forestwood
Chambers	Hartnett
Chambers	Joyce Ellen
Chambers	Lamotte
Chambers	Millman (2 stop signs North and South)
Church St.	Clay Ave.
Church St.	Maple
Clarion	Forge (2 stop signs East and West)

Clark	Louisa
Clark	Northbound and southbound traffic on Clark Ave. at Wesley Ave.
Clark	Randolph (2 stop signs East and West)
Clark	Roberta
Clark	Spring
Clark	Tiffin (2 stop signs East and West)
Clark	Wesley
Dade	Abston (2 stop signs East and West)
Dade	Graf (2 stop signs East and West)
Dade	Lower Suburban
Dade	North
Dade	Rolwes
Dade	Tiffin
Dade	Walters
Dade	Wesley
Dade Ave.	Airport
Dade Ave.	January Ave., eastbound and westbound
Darst	Adelle
Darst	Almeda
Darst	Barat
Darst	Clay (2 stop signs North and South)
Darst	Cunningham
Darst	Maple

Darst	Millman
Dashwood	Forestwood, northbound and southbound
Dupree	Halpin
Dupree	Woodstock
Edgehill	Forestwood, northbound and southbound
Elizabeth	Adams
Elizabeth	Church
Elizabeth	Derinda
Elizabeth	Godfrey
Elizabeth	Laurel
Elizabeth	Parker
Elizabeth Ave.	Chambers and Hereford Ave.
N. Elizabeth	Alicia
N. Elizabeth	Eastleigh
N. Elizabeth	Elizabeth Court
N. Elizabeth	Hudson
N. Elizabeth	Hunters Ridge
N. Elizabeth	Larkin
N. Elizabeth	Monceau
N. Elizabeth	Old Hereford
N. Elizabeth	Plantmore
N. Elizabeth	Powell
N. Elizabeth	Robert (2 stop signs East and West)

N. Elizabeth	Royal (2 stop signs East and West)
N. Elizabeth	Thoroughman
Elkan	Maurice
Elkins	Atmore
Elkins Dr.	Jesskamp Dr.
Exuma	Culebra
Falmouth	Rockingham
Ferguson	Centre
Ferguson	Forestwood
Ferguson	Godfrey
Ferguson	Sharondale (stop signs at west end and east end)
Florissant	Arbor Village
Florissant	Bangert
Florissant	Blackburn
Florissant	Compton
Florissant	Darst
Florissant	Eddy
Florissant	Elkan
Florissant	Fairview
Florissant	Lakeview
Florissant	Lee
Florissant	Oliver
Florissant	Olympia

Florissant	Patricia
Florissant	Randolph
Florissant	Renshaw
Florissant	Royal
Florissant	Ruggles
Florissant	Thoroughman
Florissant	Tiffin
Florissant	Wiegel
W. Florissant	Lang
W. Florissant	Nesbit
Ford	Drummond
Forestwood	Clearfield
Forestwood	Dashwood (2 stop signs East and West)
Forestwood	Edgehill (2 stop signs East and West)
Forestwood	Elmdale
Forestwood	Meadowcrest
Forestwood	Vershire
Forestwood	Wayside
Frost	Buckeye
Frost	Drummond
Frost	Uplynn
Georgia	Belleville

Georgia	Estelle
Georgia	Randolph
Georgia	Roberta
Georgia	Tiffin (2 stop signs East and West)
Georgia	Winshire
Glenowen	Andros (2 stop signs East and West)
Glenowen	Bahama
Glenowen	Windward
Hartnett	Cernicek
Hartnett	Darst
Hartnett	Forest
Hartnett	Highmont
Harvey	Abston
Harvey	Suburban, eastbound and westbound
Harvey	Suburban (eastbound only)
S. Harvey	Estelle
S. Harvey	Graf
S. Harvey	Lower Suburban
S. Harvey	S. Marguerite
S. Harvey	Tiffin (2 stop signs East and West)
S. Harvey	Wesley (2 stop signs East and West)
Hawkesbury	Falmouth Dr.
Hentschel	Drummond

Hentschel	Olympia
Hentschel	Wooster (2 stop signs East and West)
Hereford	Adelle
Hereford	Cunningham
Hereford	Nancy
Hern	Prospect
Hern	Wyndhurst
Highmont	Bayview
Highmont	Gage (2 stop signs North and South)
Highmont	Kirk
Highmont	Meadowcrest
Highmont	Rand
Highmont	Royce (2 stop signs North and South)
Highmont	S. Dellwood (2 stop signs North and South)
Highmont	Ward
Hudson	Birchgate
Hudson	Chardonniere
Hudson	Chateau Woods
Hudson	Chatelet Woods
Hudson	College Drive
Hudson Rd.	Smith Rd., Hudson Hills Dr.
January	Caldwell
January	Dade

January	Ford
January	Hentschel (2 stop signs North and South)
January Ave.	January Ave., 445 feet west of Florissant Road (eastbound and westbound)
January	Jehling
January	Marie
January	Thurston (East side)
January	Warfield
Jesskamp	Elkins (2 stop signs East and West)
Jesskamp	Elkins Dr.
Laurel	Teston, Millman, Ballman
Marguerite	Abston
Nancy Pl.	Royal Ave., eastbound and westbound
Nearbrook	Dyerdown
Nearbrook	Smithshire
Nearbrook	Westwold
New Halls Ferry	Woodwind
North Winds	Vickie
Northwind Est. Dr.	Vickie Pl.
Paul	St. Louis
Paul Ave.	Florissant Blvd. (northbound stops)
Pemberton	Weigel, eastbound and westbound
Pemberton	Weigel (2 stop signs East and West)

Pershall	Charlotte
Pershall	Knollstone
Pershall	Knollway
Pershall	Moonlight
Pershall	Trask
Powell Ave.	Gerald Ave.
Renshaw	Fenwick
Robert	Ames
Robert	Averill
Robert	Ballman
Robert	Chanslor (2 stop signs North and South)
Robert	Estates
Robert	Gerald (2 stop signs North and South)
Robert	Lamotte
Robert	Millman
Robert	Nancy (2 stop signs North and South)
Robert	N. Clay
Robert	Superior
Robert	Teston
Ruggles	Elliott
Smith	Hudson (2 stop signs East and West)
Spot Dr.	Parking lot #2 immediately adjacent to the rear of buildings facing on Florissant Rd.

Suburban	Burdale
Suburban	Dade
Suburban	Georgia
Suburban	Hern
Suburban	Jean
Suburban	Mueller
Suburban	Plaza
Suburban Ave.	Florissant Blvd. (southbound stops)
Superior	Laurel
Royal	Ballman (southbound stops)
Thatcher	Nearbrook (southbound stops)
Tiffin	S. Marguerite
W. Florissant	Harneywold Dr.
W. Florissant	Klosterman Rd.
W. Florissant	Northwind Estates Dr.
W. Florissant	Stein Ave.
Wheeling	Elkins (2 stop signs North and South)
Wheeling Court	Elkins
Woodstock	Haley
Woodstock	Willmann

Woodstock	Wysin
Woodstock Ave.	Behle
Woodstock Ave.	Blanton
Woodstock Ave.	Dupree
Woodstock Ave.	Emerald
Woodstock Ave.	Lagonda Ave.
Woodstock Ave.	Payne

(Code 1973, ch. 42, sched. B; Ord. No. 90-2413, § 1, 5-22-90; Ord. No. 2474, § 1, 5-28-91; Ord. No. 2475, § 1, 5-28-91; Ord. No. 92-2573, § 1, 10-27-92; Ord. No. 93-2640, § 1, 6-22-93; Ord. No. 94-2748, § 1, 11-22-94; Ord. No. 2002-3145, § 1, 6-11-02)

Sec. 44-507. - Stop intersections—Additional.

In accordance with section 44-147, at the following intersections all traffic approaching the intersection shall stop as indicated:

Traffic Stops On	Traffic on Following Streets Stop
Adams Ave. (westbound)	Southbound traffic exiting at Parking Lot No. 2 at the intersection of St. Louis and Adams
Adams Ave.	St. Louis Avenue
Airport	N. Harvey
Bermuda Ave.	Paul Ave.
Brotherton,	Hern

corner	
Carson	Dade
At Central School, westbound traffic stops at a point 341 feet distant from the west line of	
Church Street	Lewis Avenue
Church Street	Maple Avenue
Clark	Carson
Clark	Suburban
Clark Ave.	
Coppinger	Robert
Darst Rd.	Elizabeth Ave.
Exuma Dr. (eastbound and westbound)	Inaqua
Forestwood Dr.	Highmont Dr.
Ford Dr.	Frost Ave.
Frost Ave.	Hentschel
Georgia	Wesley
Georgia Ave. (northbound)	Carson Road (eastbound and westbound)
Glen Owen	Exuma
Harvey	Suburban (westbound)
Smith	Dyerdown

(Ord. No. 86-2119, § 1, 1-14-86; Ord. No. 88-2318, § 1, 10-11-88; Ord. No. 94-2730, § 1, 8-30-94; Ord. No. 94-2736, § 1, 9-13-94; Ord. No. 3059, § 1, 10-26-99; Ord. No. 2002-3146, § 1, 6-11-02)

Sec. 44-508. - Yield intersections.

In accordance with section 44-147, the following intersections are declared to be yield-right-of-way intersections:

Intersections	To Control
Barat and Centre	Oncoming traffic on Centre and southbound traffic on Hartnett
Centre and Barat	Oncoming traffic on Barat and southbound traffic on Hartnett
South Dellwood and Fargo	Eastbound and westbound traffic on Fargo
W. Florissant Ave. and Lydia Ln.	Northbound and southbound traffic on West Florissant
Graf and Plaza	Controlling eastbound traffic on Graf and westbound traffic on Plaza
Hartnett and Barat	Oncoming traffic on Barat and northbound traffic on Centre
Laurette and Blanding	Northbound traffic on Laurette
Laurette and Blanding	Southbound traffic on Laurette
Laurette and Castro	Southbound traffic on Laurette
Northwinds and W. Florissant	Controlling southbound traffic on W. Florissant turning left onto Northwinds and controlling northbound traffic on W. Florissant turning right onto Northwinds
Randolph	Eastbound and westbound traffic on Randolph Ave

Ave. at Clark	
Rolwes Ave. at Henquin Ave.	Westbound traffic on Rolwes Ave.
Settle Ave. and Harvey	Eastbound and westbound traffic on Settle Ave.
Tiffin Ave. and Clark Ave.	Eastbound and westbound traffic on Tiffin
Uplynn Dr. and Olympia Dr.	Northbound and southbound traffic on Uplynn
Walters Dr. at Henquin Ave.	Westbound traffic on Walters Dr.
Wesley Ave. at Clark Ave.	Westbound traffic only on Wesley
Wesley Ave. at Georgia Ave.	Eastbound and westbound traffic on Wesley Ave.

(Code 1973, ch. 42, sched. B-1; Ord. No. 88-2321, § 1, 10-25-88; Ord. No. 98-2983, § 1, 5-21-98; Ord. No. 99-3056, § 1, 10-26-99; Ord. No. 2002-3149, § 1, 6-25-02)

Sec. 44-509. - No left turn or right turn.

In accordance with section 44-189, no person shall make a left turn or a right turn at any intersection specified in this section on any of the following streets:

No left turn:

Intersection		Time Frame
From	Into	
Business driveway 75 feet south of the south line of	Southbound S. Florissant	Anytime

Church Street		
Eastbound Airport Rd.	Abston Ave.	
Northbound Florissant Blvd.	Carson Rd.	7:00—9:00 a.m. and 4:00—6:00 p.m., except Saturdays, Sundays and holidays
Southbound S. Florissant south	Business driveway 75 feet of the south line of Church Street	Anytime
Southbound W. Florissant 280 feet south of Pershall	Private Commercial Drive (Burger King/Krispy Kreme)	Anytime
West Florissant	Lang	4:00 p.m.—6:00 p.m.
Westbound Woodstock Rd.	Dupree Ave.	3:00 p.m.—6:00 p.m.

No right turn:

Intersection		
From	Into	Time frame
Southbound Dade Ave.	Abston Ave.	
Southbound Dade Ave.	Rowles Ave.	6:00 a.m.—8:00 a.m.
Southbound Dade Ave.	Walters Dr.	6:00 a.m.—8:00 a.m.
Northbound Dupree Ave.	Woodstock Rd.	6:00 a.m.—9:00 a.m.
Northbound Henquin Dr.	Rowles Ave.	3:30 p.m.—6:00 p.m.
Northbound Henquin Dr.	Walters Dr.	3:30 p.m.—6:00 p.m.
Westbound Ferguson Ave.	Godfrey Ln.	

(Code 1973, ch. 42, sched. H; § 42.24; Ord. No. 86-2179, § 1, 11-25-86; Ord. No. 86-2183, § 1, 1-13-87; Ord. No. 98-3017, § 1, 12-8-98; Ord. No. 99-3058, § 1, 10-26-99)

Sec. 44-510. - One-way streets.

In accordance with section 44-207, traffic shall move only in the direction indicated on the following streets:

Birlin Avenue from Lewis Street to the City Hall Parking Lot, eastbound.

Hudson Road, one way eastbound only, on right-turn lane constructed at its intersection with West Florissant Avenue.

Lewis Street from S. Maple Avenue to Church Street, northbound.

S. Maple Avenue from Church Street to Lewis, southbound.

Wayside Drive, from Chambers Road to the intersection of Wayside Drive and Forestwood Drive, southbound.

Wesley Avenue, from Florissant Boulevard to Georgia Avenue, westbound.

(Code 1973, § 42.38; Ord. No. 2008-3348, § 1, 3-11-08)

Sec. 44-511. - No right turn on red traffic signal.

In accordance with section 44-228, no vehicle shall proceed to make a right turn on a red traffic signal at the following intersections at the times indicated:

Intersection	Direction before turning	Time frame when right turn on red light is prohibited
Airport and N. Dade	Southbound on N. Dade onto Airport	At all times
W. Florissant and Northland Service Dr.	Westbound on Northland Service Dr. onto W. Florissant	At all times
S. Florissant and Suburban	Eastbound on Suburban onto S. Florissant	7 a.m. to 9 a.m. and 4 p.m. to 6 p.m.
S. Florissant and Paul	Westbound on Paul onto S. Florissant	At all times
S. Florissant and Paul	Northbound on S. Florissant onto Paul	At all times
S. Florissant and Spot Dr	Westbound on Spot Dr. onto	At all times

	S. Florissant	
S. Florissant and Carson	Southbound on Florissant onto Carson	At all times
S. Florissant and Carson	Eastbound on Carson onto S. Florissant	At all times
N. Florissant and Church	Westbound on Church onto N. Florissant	At all times
N. Florissant and Church	Northbound on N. Florissant onto Church	At all times
Elizabeth and Hereford/Chambers	All four directions	At all times

(Code 1973, ch. 42, sched. I; Ord. No. 89-2361, § 1, 5-23-89)

Sec. 44-512. - No parking zones.

In accordance with section 44-254, no person shall park a vehicle at the times indicated on any of the following streets:

Location				
Street	Side	From:	To:	Time
Abston	South	Dade	Airport	Anytime
Adams	Both	Florissant	St. Louis Ave.	Anytime
Adelle	West	Darst	Hereford	Anytime
Airport	North	Railroad overpass	Wabash	Anytime
Airport, on 10-foot strip behind curb	North	Henquin	Newell	Anytime
Airport, on street	North	Henquin	50 feet west	Anytime
Airport, on street	North	Newell	50 feet east	Anytime

Airport	North	Newell	West city limits	Anytime
Airport	North	N. Dade	240 feet west	Anytime
Airport	North	N. Dade	240 feet east	Anytime
Airport	South	N. Dade	190 feet west	Anytime
Airport	South	N. Dade	180 feet east	Anytime
Airport	South	Florissant	50 feet west	4:30 p.m.— 6:30 p.m.
Albert	Both	Florissant	200 feet west	Anytime
Anabel	South	West line of Wabash	50 feet west	Anytime
Anabel	North	West line of Wabash	25 feet west	Anytime
Averill	East	Chambers	75 feet north	Anytime
Averill	West	North line of Chambers	65 feet north	Anytime
Averill	East	North line of Chambers	88 feet north	Anytime
Almeda	Both	Approx. 40 feet from south terminus		Anytime
Blackburn	North	129 feet west of Florissant	End of street	Anytime
Street	Side	From:	To:	Time
Brotherton	North	Elliott	Hern	Anytime
Brotherton	South	S. Florissant	North Hills	Anytime
Brotherton	South	Hern	Grove	Anytime
Canfield	Both	East property line of Canfield Green Apartments	West line of Canfield Green Apartments	Anytime
Carson	North	Clark	50 feet west	Anytime
Carson	North	Florissant	West line of Miller	Anytime

			projected	
Carson	South	Florissant	Dade	Anytime
Chambers	Each	50 feet from crosswalk at Millman		Anytime
Chambers	Each	50 feet of crosswalk at Day Dr.		Anytime
Chambers	Both	To a point 300 feet east of the center line of Elizabeth		Anytime
Chambers	South	Dellwood City Limits	A point 200 feet west	Anytime
Chambers	South	50 feet west of Hartnett	Corner of Hartnett and Chambers	Anytime
Charlotte	Both	1550 Charlotte	Pershall	Anytime
Church	North	Florissant	Maple	Anytime
Church	South	Lewis	Maple	Anytime
Church	South	S. Florissant	East 160 feet	Anytime
Church	South	Maple	East 70 feet	3:15 p.m.— 3:45 p.m. Mon.—Fri.
City parks	All	11:00 p.m.	6:00 a.m.	Anytime
		Except that parking may be permitted between 11:00 p.m. and 6:00 a.m. to coincide with times stated in the park use permit as issued under section 19-31 or section 19-33.		
Clark	East	400 feet north of north line of Carson	Point opposite north end of concrete retaining wall	Anytime
Clark	West	Suburban	Airport	Anytime

Clay	East	Church	Hereford	Anytime
Coppinger	West	Chambers	Robert	Anytime
Dade	East	105 ft. south of south line of Graf	South 330.6 feet	Anytime
N. Dade	Both	140 feet north of Airport		Anytime
N. Dade	East	Airport	315 feet south	Anytime
N. Dade	West	Airport	295 feet south	Anytime
Darst	South	Hartnett	Florissant	Anytime
Darst	South	Elizabeth	Almeda	Anytime except Sunday
Darst	North	East line of Elizabeth	50 feet eastward	Anytime
Day	West	Chambers	North to north property line of 221 Day	8:00 a.m. to 10:00 p.m. Mon.—Fri. except holidays
Edgehill	Both	Forestwood	East 120 feet	Anytime
N. Elizabeth	West	Chambers/Hereford	200 feet north	Anytime
S. Elizabeth	East	Chambers/Hereford	315 feet south	Anytime
N. Elizabeth	Both	Chambers/Hereford	Hudson Road	6:30—8:30 a.m. 3:30—6:30 p.m. Mon.—Fri.
S. Elizabeth	West	Chambers/Hereford	Ferguson	6:30—8:30 a.m. Mon.—Fri.
S. Elizabeth	East	Chambers/Hereford	Ferguson	3:30—6:30

				p.m. Mon.—Fri.
N. Elizabeth	East	I-270 ramp	876 feet south which is the south line of the city and north line of Calverton city limits	Anytime
N. Elizabeth	West	I-270 ramp	546 feet south which is also the north line of Milbank Drive	Anytime
N. Elizabeth	Both	Chambers/Hereford	Thoroughman	Anytime
S. Elizabeth	West	Chambers/Hereford	152 feet south	Anytime
S. Elizabeth	West	Old Hereford	200 feet south	Anytime
Elkan	South	Maurice	Florissant	Anytime
Elkan	North	Maurice	West 124 feet	Anytime
Elkins	North	Jesskamp	Extension of south line of Vitadale with west line of Woodward	Anytime
Elmdale	South	Clearfield	63 feet west on Elmdale	Anytime
Elmdale	North	Clearfield	44 feet west on Elmdale	Anytime
Ferguson	South	Elizabeth	West Florissant	Anytime
Ferguson	North	West Line of Park-Ridge Subd.	West Florissant	Anytime
Ferguson	South	W. Florissant	West side of driveway into Barton Pontiac	Anytime

W. Florissant	Both	50 feet north of Lydia	50 feet south of Lydia	Anytime
W. Florissant	West	South city limits	995 feet north	Anytime
W. Florissant	Both	Maline Creek	North city limits	Anytime
Florissant	Both	Airport	Carson	Anytime
Florissant	Both	Airport	North city limits	Anytime
Florissant	Both	Paul-Suburban	South city limits	Anytime
Florissant	East	Carson	Suburban-Paul	Anytime
Florissant	East	Hereford	30 feet north of north line of Royal	Anytime
Florissant	West	Airport	January	Anytime
Forestwood	West	Edgehill	North 50 feet	Anytime
Forestwood	West	Chambers	South 60 feet	Anytime
Forestwood	East	Chambers	South 65 feet	Anytime
Forestwood	East	Edgehill	South 50 feet	Anytime
Georgia	West	Wesley	Tiffin	Anytime
Gerald	East	Robert	Powell	Anytime
Harrison	East	Suburban	Randolph	Anytime
Hartnett	East	Highmont	North to south property line of 124 Hartnett	Anytime
N. Hartnett	West	South line of Barat	A point 45 feet south	Anytime
Harvey	West	North line of Wesley	A point 50 feet north	Anytime

Henquin	West	Noah	50 feet south	Anytime
Hereford	North	Florissant	Elizabeth	Anytime
Hereford	South	Elizabeth	West 125 feet	Anytime
Hereford	South	Florissant	Cunningham	Anytime
Hereford	South	Adelle	Eastwardly 66 feet	Anytime
Hereford	South	Adelle	Westwardly 50 feet	Anytime
Hereford	North	Nancy	Eastwardly 70 feet	Anytime
Hereford	North	Nancy	Westwardly 50 feet	Anytime
Hern	East	Brotherton	Terminal right-of-way	Anytime
Hudson	Both	W. Florissant	West 200 feet	Anytime
January	South	Florissant	Warfield	Anytime
January	North	Florissant	Parking lot entrance of January-Wabash Memorial Park	Anytime
Jesskamp	West	Woodwind	North 25 feet on Jesskamp	Anytime
Joyce Ellen	East	Chambers	Cheri Heights Ct.	Anytime
Joyce Ellen	West	Chambers	South 180 feet	Anytime
Knollstone	South	West property line of 3616 Knollstone (Lot 11-Knolls Subdivision)	A point 117 feet east	Anytime
Lamotte	West	Chambers	North 170 feet	Anytime

Lakeview Ct.	North	493 feet west of the right-of-way of Florissant Rd.	A point 543 feet west	Anytime
Lakeview Ct.	South	480 feet west of the right-of-way of Florissant Rd.	A point 543 feet west	Anytime
Lang	North	Royce	84 feet east of the east line of Royce Ave.	Anytime
Lewis	East	Church	South to end of street	Anytime
Louisa	South	West property line of 324 Louisa	60 feet east	Anytime
Maple	East	Church	Darst	Anytime
Marie	East	Blackburn	January	Anytime
Marguerite	South	On any part of the island opposite the property numbered as 333, 337, 339 and 341 on west side of S. Marguerite and opposite the property numbered 330 and 334 on the east side of S. Marguerite; and the land immediately adjacent to such island on any side		Anytime
Marvin	East	Brotherton	Terminal Railroad	Anytime
Mintert Ind. Dr.	Both	East line of Bermuda eastwardly	End of Mintert	Anytime
Mueller	Both	North line of Suburban	South line of Graf	9:00 a.m.—11:00 a.m. 1—3 Tues.
Nancy	East	Robert	South 200 feet	Anytime
Nancy	West	Hereford	North 230 feet	Anytime

Nesbit	Both	Intersection w/Newton	65 feet southwest	Anytime
Newell	East	Noah	50 feet south	Anytime
Newton	Both	Intersection w/Nesbit	70 feet north	Anytime
Noah	South	Henquin	Newell	Anytime
North	Both	Dade	Mueller	Anytime
North	South	West right-of-way of Dade	135 feet west	Anytime
Patricia	Both	Florissant	East 300 feet	8:00 a.m.— 8:00 p.m.
				Except Sunday
Patricia	South	The east line of South Florissant Road (State Route N)	East 495 feet	Anytime
Paul	Both	Ferguson	St. Louis	Anytime
Paul	North	Florissant	East 150 feet	Anytime
Paul	South	Florissant	East 250 feet	Anytime
Pershall	South	Elizabeth	East 75 feet	Anytime
Pershall	North	Elizabeth	East 1000 feet	Anytime
Pershall	North	East extension of Knollway	West extension of east drive of FVCC	Anytime
Plantmore	North	360 feet east from the east line of Elizabeth Ave.	440 feet east from the east line of Elizabeth Ave.	Anytime
Plantmore	South	From a point 253 feet from east property line of N. Elizabeth	Eastwardly 113 feet to a point 366 feet	Anytime
Plymouth Ct	South	East line of Thurston	Eastwardly 127	Anytime

			feet	
Powell	North	Florissant	Elizabeth	Anytime
Powell	South	Elizabeth	Gerald	Anytime
Powell	South	Gerald	East 175 feet	Anytime
Prospect	South	West line of Hern	South line of Ridge	Anytime
Randolph	South	Georgia	Florissant	Anytime
Randolph	North	S. Florissant	Westward 150 feet	Anytime
Redmond	East	125 feet north of north line of Short	400 feet north of north line of Short	Anytime
Ridge	North	Hern	West 200 feet	Anytime
Ridge	North	West line of Hern	East line of Wyndhurst	Anytime
Robert	South	Nancy	Gerald	Anytime
Robert	South	Superior	West 83 feet	Anytime
Robert	South	Superior	East 50 feet	Anytime
Roberta	North	Clark	183 feet from east line of Georgia	Anytime
Rowles	South	Henquin	N. Dade	Anytime
Royal Avenue	North	Florissant	Nancy	Anytime
Royal Avenue	South	Florissant	A point 188 feet eastwardly	Anytime
Royal	North	Elizabeth	Millman	6:00 a.m.— 1:00 p.m.

				Sundays
Royal	North	Nancy Avenue	Florissant Road	Anytime
Royal	South	Elizabeth	Nancy	6:00 a.m.— 1:00 p.m.
				Sundays
Royce	East	Lang	72 feet north of the north line of Lang Ave.	Anytime
Ruggles	Both	Florissant	Ellsworth	Anytime
Short	North	Redmond	St. Louis	Anytime
Smith	East	Geringer Court	North 502 feet	Anytime
Stein	North	W. Florissant	West to terminus 1100 block	Anytime
Stein	North	W. Florissant	West to terminus 1100 block	Anytime
Suburban	North	Florissant	Harvey	Anytime
Superior	Both	Robert	South 50 feet	Anytime
Superior	West	North line of High Pl.	53 feet north thereof	Anytime
Thomas 400 block	East	Randolph	Suburban	Anytime
Thomas	East	Ruggles	Brotherton	Anytime
Thoroughman	North	Florissant	Chanslor	Anytime
Thoroughman	South	Florissant	Nancy	8:00 a.m.— 6:00 p.m. excluding Sundays

Thoroughman	Both	Elizabeth	50 feet west of west line of Elizabeth	Anytime
Tiffin	Both	Florissant	Harrison	Anytime
Tiffin	North	80 feet east of Georgia	Harvey	Anytime
Tiffin	South	Georgia	Harvey	Anytime
Wesley	North	Florissant	Clark	Anytime
Wesley	South	315 feet west of Clark	425 feet west	Anytime
Wesley Avenue	South	25 feet east of Parking Lot #3 driveway	Driveway	Anytime
Driveway for Parking Lot #3 off Wesley	Both	Full 130-foot length of driveway		Anytime
Wheeling		North half of cul-de-sac		Anytime
Wiegel	Both	S. Florissant	Tesmore	Anytime
Wiegel	North	S. Florissant	West 70 feet	Anytime
Wiegel	South	Marvin	760 feet east	8:00 a.m.— 5:00 p.m. Mon.—Fri.
Street	Side	From:	To:	Time
Woodwind	West	380 feet south of west property line of New Halls Ferry	Extension of south line of Vitadale with west line of Woodwind	Anytime
Wyndhurst	North	Hern	95 feet west of west line of Hern	Anytime

(Code 1973, ch. 42, sched. F; Ord. No. 2009, § 1, 10-25-83; Ord. No. 2016, § 1, 11-22-83; Ord. No. 2025, § 1, 2-28-84; Ord. No. 2047, § 1, 11-13-84; Ord. No. 85-2055, § 1, 2-26-85; Ord. No. 85-2063, § 1, 3-26-85; Ord. No. 2074, § 1, 4-23-85; Ord. No. 85-2076, § 1, 5-28-85; Ord. No. 86-2120, § 1, 1-14-86; Ord. No. 86-2122, § 1, 2-25-86; Ord. No. 86-2132, § 1, 4-15-86; Ord. No. 86-2172, § 1, 10-14-86; Ord. No. 86-2178, § 1, 11-25-86; Ord. No. 88-2252, § 1, 1-12-88; Ord. No. 88-2278, § 1, 4-19-88; Ord. No. 88-2291, § 1, 6-14-88; Ord. No. 88-2294, § 1, 6-28-88; Ord. No. 88-2306, § 1, 8-9-88; Ord. No. 89-2369, § 1, 6-27-89; Ord. No. 90-2407, §§ 1, 2, 3-27-90; Ord. No. 92-2554, § 1, 8-25-92; Ord. No. 94-2749, § 1, 11-22-94; Ord. No. 96-2827, § 1, 3-12-96; Ord. No. 97-2893, § 1, 2-25-97; Ord. No. 97-2947, § 1, 10-28-97; Ord. No. 98-2990, § 1, 7-28-98; Ord. No. 98-3013, § 1, 11-24-98; Ord. No. 99-3054, § 1, 10-26-99; Ord. No. 99-3057, § 1, 10-26-99; Ord. No. 2003-3168, § 1, 1-28-03; Ord. No. 2013-3542, § 1, 12-10-13)

Sec. 44-513. - Limited parking zones.

In accordance with section 44-255, no person shall park a vehicle for a period of time longer than specified in this section on any of the following streets:

Street	Side	Location	Time Frame
Adelle	Both		Two hours 8:00 a.m.—5:00 p.m. excluding Sunday
Airport	North	Between Florissant Blvd. and Wabash right-of-way	One hour anytime
Almeda	East	From the south terminus to the south line of Darst	Two hours 8:00 a.m.—5:00 p.m. Mon.—Fri.
Brotherton	South	Between Marvin and North Hills Lane	7:00 a.m.—4:00 p.m. Mon.—Fri.
Church	North	Elizabeth Ave. westwardly 190 feet	8:00 a.m.—4:00 p.m. school days
Church	South	Beginning at a point 160 feet east of the S. Florissant Rd., eastwardly to a point 250 feet east of the east line of S. Florissant Road	30 min. all times
City parking lot	East	Florissant Blvd. immediately to the south of the Norfolk and Western Railroad overpass	Two hours 8:00 a.m.—8:00 p.m. Mon.—Sat.
City parking lot #2	West	From the south line of Spot Dr.,	Two hours 8:00 a.m.—

		terminus of the perpendicular parking immediately adjacent to the walkway area to the rear of the commercial buildings on S. Florissant Rd.	
Dade Ave. public park		Parking area in the park	Two hours 6:00 a.m.—11:00 p.m.
Florissant	West	From Carson to Suburban-Paul	Two hours from 8:00 a.m. to 5:00 p.m., excluding Sundays
Royal Avenue	South	A point 188 feet eastwardly from Florissant to Nancy	Mon.—Fri. 10:00 a.m.—2:00 p.m.
St. Louis	West	From a point 258 feet south of the south line of Adams Avenue to a point 308 feet south of the south line of Adams Avenue	15 min. all times
Thoroughman	North	From the east line of Chanslor Ave. to a point 180 feet east	Mon.—Fri. 10:00 a.m.—2:00 p.m.
Tiffin	North	Between Florissant Blvd. and Clark	Two hours 8:00 a.m.—5:00 p.m. excluding Sunday
Wesley	South	Between Florissant Blvd. and Clark	Two hours 8:00 a.m.—5:00 p.m. excluding Sunday

(Code 1973, ch. 42, sched. G; Ord. No. 88-2263, § 1, 2-23-88; Ord. No. 92-252, § 1, 2-25-91; Ord. No. 92-2543, § 1, 6-23-92; Ord. No. 97-2892, § 1, 2-25-97; Ord. No. 97-2931, § 1, 8-5-97; Ord. No. 98-2991, § 1, 7-28-98; Ord. No. 99-3055, § 1, 10-26-99)

Sec. 44-514. - Pedestrian crosswalks.

The following are declared to be pedestrian crosswalks wherein motor vehicles shall stop for pedestrians standing in or approaching the crosswalk as required by section 44-147(b). A "stop for pedestrian in crosswalk" sign shall be installed at the following designated pedestrian crosswalks:

Traffic Stops On	Intersection
Adams	Florissant
Airport	Dade, 2 crosswalks, east and west
Airport	Florissant
Albert	Florissant
Andros	Glenowen, 2 crosswalks, east and west
Argent	Chambers
Canfield	W. Florissant
Carson	Clark, 2 crosswalks, east and west
Carson	Florissant
Carson Road, north and southbound	Harvey
Chambers	Day
Chambers	Elizabeth
Chambers	Millman
Church	Florissant
Church	Lewis, East and West
Church	Maple, East and West
Clark	Carson, 2 crosswalks, north and south
Clark	Wesley, 2 crosswalks, north and south
Clark Avenue	North side of Wesley

Avenue (both directions)	Lutheran Church
Dade	Airport, 2 crosswalks, north and south
Dade	January
Darst	Elizabeth, East and West
Elizabeth	Chambers, North and South
Elizabeth	Church
Elizabeth	Darst, North and South
N. Elizabeth	Monceau
N. Elizabeth	Powell
Elkins	Jesskamp
Elkins	Wheeling
Exuma	Glenowen, 2 crosswalks, east and west
Ferguson	W. Florissant
Florissant	Adams, 2 crosswalks, north and south
Florissant	Airport, 2 crosswalks, north and south
Florissant	Albert
Florissant	Carson, south side
Florissant	Church, 2 crosswalks, north and south
Florissant	January
Florissant	Paul, 2 crosswalks, north and south
Florissant	Robert
Florissant	Royal

Florissant	Spot, 2 crosswalks, north and south
Florissant	Woodstock
<u>19 S.</u> Florissant	
W. Florissant	Canfield
W. Florissant	Ferguson, 2 crosswalks, east and west
W. Florissant	Harneywold
W. Florissant	Highmont
W. Florissant	Northwinds
W. Florissant	Wal-Mart
Forestwood	Chambers
Forestwood	Dashwood, 2 crosswalks, north and south
Forestwood	Edgehill, 2 crosswalks, north and south
Gerald	Powell
Gerald	Robert
Glenowen	Andros, 2 crosswalks, north and south
Glenowen	Exuma, 2 crosswalks, north and south
Harneywold	W. Florissant
Hereford	Elizabeth
Hereford	Florissant

January	Dade, 2 crosswalks, east and west
Keelen	W. Florissant
Lewis	Church
Lewis Place (both directions)	South of its intersection with Church Street between Vogt School and Emmanuel Church
Maple	Church, North and South
Maple Avenue	335 feet south of Church Street
Nesbit and Newton	Entrance to Nesbit/Newton Park
Northwinds	W. Florissant
Paul	Florissant
Powell	Lee Hamilton-School
Robert	Florissant
Robert	Gerald
Suburban	Florissant
Walgreens	W. Florissant
Wayside	Chambers
Wesley	Clark, 2 crosswalks, east and west
Wesley	Florissant
222 Wesley	
Woodstock	Florissant

(Ord. No. 92-2544, § 1, 6-23-92; Ord. No. 92-2583, § 1, 11-24-92; Ord. No. 93-2640, § 2, 6-22-93; Ord. No. 94-2750, § 1, 11-22-94; Ord. No. 97-2963, § 1, 11-10-97; Ord. No. 98-3012, § 1, 11-10-98; Ord. No. 2002-3144, § 1, 6-11-02; Ord. No. 2003-3166, § 1, 1-28-03)

Sec. 44-515. - Traffic signals.

In accordance with section 44-222, traffic control signals and devices at the following locations are to be obeyed by the drivers of any vehicles and by pedestrians in accordance with the terms of this chapter:

West Florissant Avenue/Ferguson Avenue

Ferguson - Red, green arrow right, yellow arrow right, green, yellow. Pedestrian lights, left turn yield sign.

West Florissant, northbound - Red, green, green arrow left, yellow arrow left, yellow. Pedestrian lights.

West Florissant, southbound - Red, green, yellow. Pedestrian lights.

Walgreen's - Red, green, yellow. Pedestrian lights, left turn yield sign posted.

West Florissant Avenue/Canfield Drive

West Florissant, northbound - Red, green, yellow. Pedestrian lights.

West Florissant, southbound - Red, green, green arrow left, yellow arrow left, yellow. Pedestrian lights.

Canfield - Red, green, yellow. Pedestrian lights.

West Florissant Avenue/Northwinds Estates Drive

West Florissant, northbound - Red, green, yellow. Pedestrian lights, right turn yield sign.

West Florissant, southbound - Red, green, green arrow left, yellow arrow left, yellow. Pedestrian lights.

Northwinds - Red, green, yellow. Pedestrian lights, right turn yield sign.

West Florissant Avenue/Keelen Drive

West Florissant, southbound - Red, green, green arrow left, yellow arrow left, yellow. Pedestrian lights.

West Florissant, northbound - Red, green, green arrow left, yellow arrow left, yellow. Pedestrian lights.

**Keelen, eastbound* - Red, green, yellow. Pedestrian lights.

Keelen, westbound - Red, green, green arrow left, yellow arrow left, yellow. Pedestrian lights.

*Note east side of Keelen is Dellwood Avenue.

West Florissant Avenue/North County Festival (South Entrance)

West Florissant, northbound - Red, green, green arrow left, yellow arrow left, yellow. Pedestrian lights.

West Florissant, southbound - Red, green, green arrow left, yellow arrow left, yellow. Pedestrian lights.

North County Festival, eastbound - Red, green, green arrow left, yellow. Pedestrian lights.

North County Festival, westbound - Red, green, green arrow left, yellow. Pedestrian lights.

West Florissant Avenue/North County Festival (North Entrance) Harneywold Drive

West Florissant, northbound - Red, green, green arrow left, yellow arrow left, yellow. Pedestrian lights, "Do Not Block Intersection" sign.

West Florissant, southbound - Red, green, green arrow left, yellow arrow left, yellow. Pedestrian lights.

Harneywold, westbound - Red, green, green arrow left, yellow. Pedestrian lights.

North County Festival, eastbound - Red, green, green arrow left, yellow. Pedestrian lights.

West Florissant Avenue/Pershall Road

Pershall, eastbound - Red, green, yellow. Left turn only lane and sign posted.

Pershall, westbound - Red, green, yellow.

West Florissant, northbound - Red, green arrow left, yellow arrow left, green, yellow. Left turn yield on green sign posted, left turn only lane and sign posted.

West Florissant, southbound - Red, green arrow left, yellow arrow left, green, yellow. Left turn yield on green sign posted, left turn only lane and sign posted.

West Florissant Avenue/Highmont Drive

West Florissant, northbound - Red, green, green arrow left, yellow arrow left, yellow.

West Florissant, southbound - Red, green, green arrow left, yellow arrow left, yellow.

Highmont, westbound - Red, green, yellow. Pedestrian lights.

Highmont, eastbound - Red, green, yellow. Pedestrian lights.

West Florissant Avenue/Hudson Road

Hudson, westbound - Red, green arrow left, green, yellow arrow left, yellow. Pedestrian lights.

**Hudson, eastbound* - Red, green arrow left, green, yellow arrow left, yellow. Pedestrian lights.

West Florissant, southbound - Red, green, green arrow left, yellow arrow left, yellow.

West Florissant, northbound - Red, green, green arrow left, yellow arrow left, yellow.

*East side of Hudson is Dellwood Avenue.

Pershall Road/Old Halls Ferry

Pershall, eastbound - Red, yellow, green.

Pershall, westbound - Red, yellow, green.

Old Halls Ferry, northbound - Red, yellow, green.

Old Halls Ferry, southbound - Red, yellow, green.

New Halls Ferry/270 Ramp Eastbound

Off Ramp, eastbound - Red, green straight arrow, green arrow left, yellow. Right lane yield sign posted.

New Halls Ferry, northbound - Red, green, yellow.

New Halls Ferry, southbound - Red, green straight arrow, green arrow left, yellow arrow left, yellow. Left turn yield on green sign posted.

Elizabeth Avenue/Powell Avenue - Push button school crosswalk signal; red, green, yellow.

Elizabeth Avenue/Hereford Avenue - Chambers Road

Elizabeth, southbound - Red, green arrow left, yellow arrow left, green, yellow. Pedestrian lights, no right turn on red sign posted.

Elizabeth, northbound - Red, green arrow left, yellow arrow left, green, yellow. Pedestrian lights, no right turn on red sign posted.

Hereford, westbound - Red, green arrow left, yellow arrow left, green, yellow. Pedestrian lights, no right turn on red sign posted.

Chambers, eastbound - Red, green arrow left, yellow arrow left, green, yellow. Pedestrian lights, no right turn on red sign posted.

Elizabeth Avenue/Ferguson Avenue

Elizabeth, southbound - Red, green arrow left, yellow arrow left, green, yellow.

Elizabeth, northbound - Red, green, yellow.

Ferguson Avenue - Red, green arrow left, green, yellow.

Paul Avenue/Bermuda Road

Paul, westbound - Red, green, green arrow left, yellow arrow left, yellow.

Paul, eastbound - Red, green, yellow.

Bermuda - Red, left arrow green, right arrow green, right arrow yellow, yellow.

South Florissant Road/Woodstock Road - Brotherton Lane

South Florissant, northbound - Red, green arrow left, yellow arrow left, green, yellow. Left turn yield on green sign posted.

South Florissant, southbound - Red, green arrow left, yellow arrow left, green, yellow. Left turn yield on green sign posted.

Brotherton, westbound - Red, green, yellow. Pedestrian lights.

Woodstock, eastbound - Red, green, yellow. Pedestrian lights.

South Florissant Road/Paul Avenue - Suburban Avenue

South Florissant, northbound - Red, green arrow left, yellow arrow left, green, yellow. No right turn on red sign posted.

South Florissant, southbound - Red, green, yellow. Pedestrian lights, no right turn on red sign posted.

Paul, eastbound - Red, green, yellow. Pedestrian lights, no right turn on red 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.

Suburban, westbound - Red, green, yellow. Pedestrian lights, no right turn on red sign posted.

South Florissant Road/Adams Street

South Florissant, northbound - Red, green, yellow. Pedestrian lights.

South Florissant, southbound - Red, green arrow left, green, yellow.

Adams - Red, green, yellow. Pedestrian lights.

Florissant Road/Spot Drive

Florissant, northbound - Red, green, yellow. Pedestrian lights.

Florissant, southbound - Red, green, green arrow left, yellow. Pedestrian lights.

Spot - Red, green, yellow. Pedestrian lights, no right turn on red sign posted.

Florissant Road/Carson Road

Florissant, northbound - Red, green, yellow. Pedestrian lights, no left turn sign posted.

Florissant, southbound - Red, green, yellow. Pedestrian lights.

Carson - Red, green, yellow. Pedestrian lights, no right turn on red sign posted.

Florissant Road/Church Street

Florissant, southbound - Red, green arrow left, green, yellow arrow left, yellow.

Church - Red, green, yellow. Pedestrian lights, no turn on red sign posted.

Florissant Road/Hereford Avenue - Airport Road

Florissant, southbound - Red, left arrow green, green, left arrow yellow, yellow. Pedestrian lights, left turn yield on green sign posted.

Florissant, northbound - Red, left arrow green, green, left arrow yellow, yellow. Pedestrian lights, left turn yield on green sign posted.

Hereford - Red, left arrow green, green, left arrow yellow, yellow. Pedestrian lights, left turn yield on green sign posted.

Airport - Red, left arrow green, green, left arrow yellow, yellow. Pedestrian lights, left turn yield on green sign posted.

Airport Road/Dade Avenue

Airport - Red, green, yellow. Pedestrian lights.

Dade - Red, green, yellow. Pedestrian lights.

Florissant Road/January Avenue

Florissant, northbound - Red, left arrow green, green, yellow. Pedestrian lights.

Florissant, southbound - Red, green, yellow. Pedestrian lights.

January - Red, green, yellow. Pedestrian lights.

Florissant Road/Robert Avenue

Florissant, northbound - Red, green, yellow. Pedestrian lights.

Florissant, southbound - Red, green, green arrow left, yellow arrow left, yellow. Pedestrian lights, left turn yield on green sign posted.

Robert - Red, green, green arrow right, yellow. Pedestrian lights.

Florissant Road/Powell Avenue - Albert Avenue

Florissant, northbound - Red, green, yellow. Pedestrian lights.

Florissant, southbound - Red, green, yellow. Pedestrian lights.

Powell, eastbound - Red, green, yellow. Pedestrian lights.

Albert, westbound - Red, green, yellow. Pedestrian lights.

Florissant Road/Frost Avenue

Florissant, northbound - Red, green arrow left, green arrow straight, yellow arrow left, yellow. Left turn yield on green sign posted.

Florissant, southbound - Red, green, yellow.

Frost - Red, green, green arrow left, green arrow right, yellow, yellow arrow left, yellow arrow right.

(Ord. No. 97-2927, § 1, 7-15-97)

Sec. 44-516. - Handicapped parking.

In accordance with RSMo 301.143, no person shall park a vehicle which does not display a distinguishing license plate or card issued pursuant to RSMo 301.071 or 301.142 in the following locations as indicated by a sign upon which shall be inscribed the international symbol of accessibility and shall also include any appropriate wording to indicate that the space is reserved for the exclusive use of vehicles which display a distinguishing license plate or card pursuant to RSMo 301.071 or 301.142 with said sign further indicating a fifty dollar (\$50.00) to three hundred dollar (\$300.00) fine:

Address:

247½ S. Hartnett (location as indicated by sign).

(Ord. No. 99-3025, § 1, 3-9-99)

Chapter 45 - UTILITIES^[1]

Footnotes:

— (1) —

Cross reference— *Ordinances conferring any right or franchise saved from repeal, § 1-8(3); buildings and building regulations generally, Ch. 7; electrical code, § 7-61 et seq.; plumbing code, § 7-101 et seq.; flood plain management, Ch. 18; utility facilities for mobile home parks and trailer parks, § 27-26; redevelopment procedures, Ch. 34; streets, sidewalks and other public places, Ch. 40; under grounding of utilities in subdivisions, § 41-102; taxes on utilities, § 47-41 et seq.; zoning, Ch. 49.*

State Law reference— *Municipal utilities, RSMo 71.520 et seq., 250.010; city sewerages systems and waterworks, RSMo Ch. 250.*

ARTICLE I. - IN GENERAL

Sec. 45-1. - Injuring sewers and gutters.

It shall be unlawful for any person to destroy, tear up or otherwise injure any sewer, gutter, trench or channel dug or made or used for the purpose of carrying off water or draining any street or other place within the city, or to fill up or otherwise obstruct the free passage of water through any such sewer, gutter, trench or channel.

(Code 1973, § 51.20)

Sec. 45-2. - Definitions.

Dwelling. A building or portion thereof designated or used exclusively for residential occupancy, but not including hotels, motels, boarding houses, fraternities, sororities or tourist homes.

Service permit. A permit issued by the City of Ferguson permitting a gas or electric utility to temporarily initiate, commence, hook up, change customer name or account or connect any gas or electric service to dwellings for the purpose of construction, repair, maintenance or renovation of said dwellings.

Verification code. A code word or number maintained by the director of public works or his designee which will be available to gas or electric service providers by telephone to use to verify the issuance of a valid occupancy permit or service permit for dwellings within the City of Ferguson.

Waiver. The city may issue a waiver of an occupancy permit where there is to be a change of customer name or account without a change of occupancy of persons in a dwelling where no occupancy permit has previously been issued for said dwelling due to the current occupants occupying the dwelling prior to the enactment of the provision in the Code of the City of Ferguson requiring occupancy permits.

(Ord. No. 97-2915, § 1(29-3(1)), 6-29-97)

Sec. 45-3. - Verification of occupancy permit or service permit required; exceptions.

Every gas utility and electric utility as identified in chapter 42, division 2, of the Code of the City of Ferguson, shall not, after the effective date of this ordinance, initiate, commence, hook-up, change customer name or account or connect any gas or electric service to dwellings in the City of Ferguson without verifying a valid occupancy permit or service permit has been issued by the City of Ferguson for that dwelling. This section does not apply to the provision of residential heat-related utility service during cold weather as set forth in 4 CSR 240-13.055 of the Missouri Code of State Regulations nor to the reconnection of utility service to dwellings where said service has been disconnected due to non-payment for utility services, maintenance, repair, meter changes, inclement weather or emergency shut-offs.

(Ord. No. 97-2915, § 1(29-3(2)), 6-29-97)

Sec. 45-4. - Verification required.

Every gas utility and electric utility identified in chapter 42, division 2 of the Code of the City of Ferguson shall maintain a record by address of the initiation, commencement, hook up, change of customer name or account or connection of any gas or electric service to dwellings after the effective date of this ordinance which shall include the name, address, and telephone number of the person requesting the utility service and either a copy of the occupancy permit or service permit for the dwelling to which said utility service is provided or, in the alternative, maintaining a record of the verification procedure used by said utility to determine the issuance of a valid occupancy permit or service permit for said dwelling which shall include at a minimum the date, time, name, position with the city and verification code received by telephone from the city verifying the issuance of a valid occupancy permit or service permit for said dwelling. Said records and all documents maintained in accordance with this section shall be kept for a period of two (2) years from the date received and shall be available for inspection by the code enforcement director or his representative upon request.

(Ord. No. 97-2915, § 1(29-3(3)), 6-29-97)

Sec. 45-5. - Notification of termination.

(a) Every gas utility, electric utility, and water utility as identified in Chapter 42, Division 2, of this Code, and every person providing sanitary sewer services to residences in the city, shall notify the code enforcement director for the city of the termination of utility and/or sanitary sewer services to

(b) The notices set forth in subsection (a) herein shall be in writing and shall either be sent by regular mail to the Code Enforcement Director, City of Ferguson, 110 Church Street, Ferguson, Missouri 63135-2411 or sent by facsimile transmission to the code enforcement director at (314) 524-5173.
(Ord. No. 99-3035, § 1, 6-22-99)

Secs. 45-6—45-10. - Reserved.

ARTICLE II. - SEWERS^[2]

Footnotes:

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Cross reference— *Flood plain management, Ch. 18.*

Sec. 45-11. - Connection to sanitary sewer.

- (a) *Notice to connect.* The owner, tenant or person in possession of any premises having a public water supply and situated in a district in which sanitary sewers are provided shall, within thirty (30) days from and after being notified in writing to do so by the director of public works, begin soliciting bids to have his water supply connected to the sanitary sewer or actually connect such premises to the sanitary sewer so as to take care of all the sanitary waste from such premises. The notice may be given by mail, properly addressed to the owner, lessee, agent or tenant in possession or in control of the premises or if these be unknown, by posting such notice in a conspicuous place on the premises.
- (b) *Premises without public water supply.* Premises situated in a district in which sanitary sewers are provided, but without a public water supply shall erect and maintain facilities for an indoor flush toilet and the sanitary disposal of waste water, according to the specifications provided by this article.

(Code 1973, § 12.11(a), (d))

Sec. 45-12. - Septic tanks.

- (a) *Prohibited near sanitary sewers.* The use or maintenance of septic tanks in any district where sanitary sewers are available is prohibited.
- (b) *Disconnecting septic tanks.* Where septic tanks exist and it is necessary to make a connection to the sanitary sewerage system, a tile line shall be constructed around the unit, in such a manner as to preclude the possibility of any sewage flowing into or out of the cesspool or tank, and such septic tank, cesspool or sewage tank shall then be filled with earth, cinders, ashes or similar material.
- (c) *Permitted in absence of sanitary sewer.* In all districts within the city where sanitary sewers are not available, premises using a public water service shall have erected and maintained thereon, in good working order, a septic tank conforming to the rules and regulations of the state division of health.
- (d) *Availability of water service.* Water service shall not be provided to any premises in districts where sanitary sewers are available unless such premises are connected with the sanitary sewers in such district. Such water service shall not be supplied to any premises located in a district where sanitary sewers are not provided, unless a septic tank is provided conforming to the requirements of this subsection (c).

(Code 1973, §§ 12.11(b), (c), 12.13)

Cross reference— Health, Ch. 19.

Sec. 45-13. - Violations.

- (a) The owner or agent of any building or premises where a violation of section 45-11 or 45-12 has been or is being committed or shall exist, and the lessee or tenant thereof, and any and all other persons who commit, take part or assist in such violation, shall, upon conviction thereof, guilty of an offense.
- (b) As an alternative but not in addition to the imposition of any other penalty, the city may, where a violation of any such provisions has been or is being committed, have the same abated by lawfully entering upon the premises found in violation and making the proper connections required. Such work shall be done by the department of public works under the direction of the city manager. The cost of such work shall be certified by the director of public works to the city manager, who shall cause to be issued a special tax bill against such property, and such tax bill shall bear interest from and after thirty (30) days from its day of issuance, at the rate of eight (8) percent per annum.

(Code 1973, § 12.14)

Secs. 45-14—45-30. - Reserved.

ARTICLE III. - POLES AND WIRES^[3]

Footnotes:

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Cross reference— *Erection, removal and common use of poles by cable television franchisee, § 9-95; streets, sidewalks and other public places, Ch. 40.*

Sec. 45-31. - Compliance with regulations required.

Any poles, wires, tubes, cables, anchors and other apparatus erected, maintained or used in connection with a telephone or electric public utility business in the city by any person authorized to engage in such business shall be erected, maintained and used in accordance with the regulations and provisions of this article.

(Code 1973, § 10.15(a))

Sec. 45-32. - Adoption of National Electrical Safety Code.

The National Electrical Safety Code, 1984 Edition, as published by the American National Standards Institute, is hereby adopted as the electrical safety code of the city for the regulation of the installation and maintenance of all apparatus used in or incident to any public utility within the city. Each and all of the regulations, provisions, penalties, conditions and terms of the code are hereby adopted by reference and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed herein. Three (3) copies of the electrical safety code are on file in the office of the city clerk.

(Code 1973, § 10.15(e))

Cross reference— Electrical code, § 7-61 et seq.

Sec. 45-33. - Construction and maintenance by utility.

The poles, wires, tubes, cables, anchors and other apparatus used in or incident to the public utility service and to the maintenance of public utility business by public utility companies in the city shall remain as constructed, subject to such change as under the limitations and conditions herein prescribed may be considered necessary by the city in the exercise of its inherent power and by such company in the exercise of its public utility business and the public utility company shall continue to exercise its right to place,

purpose for which it is or may be incorporated may from time to time require along, across, on, over, through, above and under all the public streets, alleys and public grounds and places within the limits of the city, subject to the regulations, limitations and conditions as prescribed in this article.

(Code 1973, § 10.15(b))

Sec. 45-34. - Encumbering streets restricted.

No street, alley or public place shall be encumbered by any work under the provisions of this section for a longer period than shall be necessary to execute the work.

(Code 1973, § 10.15(g))

Sec. 45-35. - Pole specifications.

Public utility poles shall be of sound material and reasonably straight and shall be so set that they will not interfere with the flow of water in any gutters or drains, and so that they shall interfere as little as practicable with the ordinary traffic on the streets and sidewalks.

(Code 1973, § 10.15(c))

Sec. 45-36. - Location and route of poles, lines, etc.

The location and route of all public utility poles, stubs, guys, anchors, tubes and cables constructed by a public utility company and the location of all conduits carrying electric current laid within the limits of the city shall be subject to the reasonable and proper regulation, control and direction of the council or any city official to whom such duty is or may be delegated.

(Code 1973, § 10.15(d))

Sec. 45-37. - Temporary removal of wires.

Any public utility maintaining any wires carrying electric current on the request of any person shall remove, raise or lower his wires temporarily to permit the moving of a house or other structure. The expense of such temporary removal, raising or lowering of wires shall be paid by the owner of such wires. Not less than forty-eight (48) hours advance notice shall be given to the owner of such wires to arrange for such temporary wire changes.

(Code 1973, § 10.15(h))

Sec. 45-38. - Trimming trees.

Public utilities maintaining poles, wires and cables may trim trees upon and overhanging the streets, alleys, sidewalks and public places of the city so as to prevent the branches of such trees from coming into contact with the wires and cables. All of such trimming shall be done under the supervision and direction of the director of public works.

(Code 1973, § 10.15(i))

Cross reference— Trees generally, § 46-11 et seq.

Sec. 45-39. - Police and fire alarm system.

A public utility maintaining poles, wires and cables shall reserve for and hold subject to the use of the city such wire space as may be required by the city upon its poles for the use of the city police and fire

(1) pole. The location of the pole of this fire and police wire space shall be determined upon specific application for space at the time, on the application or request from the city and will be awarded in accordance with the electrical safety code adopted in section 45-32.

(Code 1973, § 10.15(j))

Cross reference— Fire department, § 17-16 et seq.; police department, § 33-16 et seq.

Sec. 45-40. - Restoration of surface of street.

The surface of any street, alley or public place disturbed in the building, constructing, removing and maintaining of a telephone or electric system shall be restored by the person responsible therefor within a reasonable time after completion of the work to as good a condition as before the commencing of the work and maintained to the satisfaction of the council, or any city official to whom such duty has been or may be delegated, for one (1) year from the date the surface of such street, alley or public place is broken for such construction or maintenance work. After one (1) year responsibility for such maintenance shall become the duty of the city.

(Code 1973, § 10.15(f))

Sec. 45-41. - Agreements for fixtures.

Nothing contained in this article shall restrict any public utility in exercising its right to voluntarily enter into pole attachment, pole usage, joint ownership and wire space and facility agreements with telephone companies and other wire-using companies which may be privileged to operate within the city.

(Code 1973, § 10.15(k))

Sec. 45-42. - Obligations under franchises.

Nothing contained in this article shall be constructed as releasing any person from any obligation assumed, or duties and obligations imposed under the provisions of any franchise ordinance of this city.

(Code 1973, § 10.15(l))

Chapter 46 - VEGETATION^[1]

Footnotes:

--- (1) ---

State Law reference— *Missouri plant law, RSMo 263.010 et seq.*

ARTICLE I. - IN GENERAL

Secs. 46-1—46-10. - Reserved.

ARTICLE II. - TREES^[2]

Footnotes:

--- (2) ---

Cross reference— *Trimming of trees for cable television operations, § 9-65; trimming trees for maintenance of utilities poles, and wires, § 45-38.*

Sec. 46-11. - Nuisances declared.

- (a) Trees of all species and varieties of *elm*, *zelkova* and *planera*, affected with the fungus *Creatosomella ulmi*, as determined by laboratory analysis, are hereby declared to be a public nuisance, and shall be cut down and removed from the premises within thirty (30) days following notification of the discovery of such infection. The owner or property whereon such a tree is situated, shall not possess or keep such a tree after the expiration of thirty (30) days following notification of the discovery of such infection.
- (b) All trees or parts thereof in a dead or dying condition are hereby declared to be public nuisances and no person owning, in control of, or occupying property wherein such trees are located shall possess or keep such trees.
- (c) It shall be unlawful, and is hereby declared a nuisance, for any owner or any person occupying or in control of property to allow on such property trees or parts thereof that extend over any sidewalk or street and thereby obstruct or interfere with passage on such sidewalk or street.

(Code 1973, § 12.15(a), (b); Ord. No. 88-2284, § 1, 5-24-88)

Cross reference— Nuisances generally, Ch. 28.

Sec. 46-12. - Inspections.

The director of public works is charged with enforcement of this article and to that end, duly authorized employees of the department of public works may lawfully enter upon private property at all reasonable hours for purposes of inspecting trees thereon, and may remove such specimens as are required for purposes of analysis to determine whether or not the same are infected.

(Code 1973, § 12.15(c))

Sec. 46-13. - Notice to remove trees.

If trees on private property are found to be nuisances as stated in section 46-11, the director of public works shall give to the owner(s) of the premises where such trees are situated written notice of the existence of such nuisance, requiring the cutting down and removal from the premises within a period of thirty (30) days following such notice. Such cutting down and removal shall be under the direction of the director of public works. Such notice shall also notify the owner(s) of the premises that unless such tree is cut down and removed from the premises in compliance with the terms thereof within such thirty-day period, the city will proceed with the cutting down and removal from the premises of such tree, and assess the cost thereof against the property by special tax bills to be issued in the name of the owner(s) of the property.

(Code 1973, § 12.15(d); Ord. No. 93-2641, § 1, 6-22-93)

Sec. 46-14. - Service of notice.

Service of the notice provided in section 46-13 shall be by posting of the property and by first-class mail where the owner of the premises is a resident of the city. Where the owner is a nonresident of the city, the notice shall be served by registered mail, addressed to the owner at his last-known address as shown on the records in the office of the director of finance, and by publication at least one (1) time in a newspaper of general circulation in the city.

(Code 1973, § 12.15(e))

Sec. 46-15. - Removal of trees.

- (a) Upon service of the notice described in section 46-13, the owner of the premises shall cause such tree to be cut down and removed from the premises under the direction and supervision of the director of public works. In lieu thereof, the person charged with such cutting down and removal from the premises, may request that the same be done by the director of public works. If the city shall cut down and remove from the premises any tree, all expenses incurred in connection therewith shall be reported to the council for assessment against the lands whereon the tree was situated.
- (b) Trees on public lands within the city shall be removed at the expense of the city.
- (Code 1973, § 12.15(f), (g))

Sec. 46-16. - Violations; penalty.

Imposition of any penalty for a violation of this article shall not waive the right of the city to collect the costs of removal of such tree in accordance with the provisions of this article.

(Code 1973, § 12.15(h))

Secs. 46-17—46-25. - Reserved.

ARTICLE III. - WEEDS, VINES, AND OVERGROWN VEGETATION^[3]

Footnotes:

-- (3) --

Cross reference— *Health, Ch. 19.*

State Law reference— *Destruction of weeds, RSMo 263.190 et seq.*

Sec. 46-26. - Definition of weeds.

For the purpose of this article, the term "weeds" shall be defined as all grasses, annual plants, and vegetation other than trees or shrubs. Provided, however, the term "weeds" shall not include cultivated flowers and vegetation in gardens.

(Ord. No. 97-2922, § 1, 7-15-97)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 46-27. - Height, growth, and removal of weeds and overgrown vegetation; nuisance declared.

It shall be unlawful, and is hereby declared a nuisance, for any person having control of any lot or tract of land, or any part thereof, to allow or maintain on any such lot or tract of land, or any part thereof, any growth of weeds to a height of seven (7) inches or over; or to allow the presence of weed cuttings, cut and fallen trees or shrubs, or overgrown vegetation; nor shall growth be allowed on the street or right-of-way or sidewalk adjacent to or adjoining any such lot or tract of land. It shall be unlawful for any such person having control of any lot or tract of land to allow the unbridled growth of any wild vines, shrubs or vegetation beyond the boundaries of such lot or tract of land in such manner that they interfere with and damage adjoining and adjacent lots or tracts of land or trees and shrubs thereon. Weeds and vines, when cut, shall be removed from the lot or tract of land and disposed of in such manner as not to create a nuisance under section 28-2.

(Ord. No. 97-2922, § 1, 7-15-97)

Cross reference— Nuisances, generally, Ch. 28.

Sec. 46-28. - Procedure for abatement.

- (a) Whenever weeds, vines, or overgrown vegetation, in violation of section 46-27, are allowed to grow on any part of any lot or ground within the city, the owner of the ground, or in the case of joint tenancy, tenancy by entireties, or tenancy in common, each owner thereof shall be liable. The owner(s) or their agent(s) shall within three (3) days of receipt of notice from the director of public works cut down and remove said weeds, vines, or other vegetation. All notices required herein shall be served personally or by certified mail, return receipt requested, sent to the last known address of the intended recipient.
- (b) If the weeds, vines, or other vegetation are not cut down and removed within the three-day period following receipt of the notice from the director of public works, the director of public works shall have the weeds, vines, or vegetation cut down and removed. The cost of such removal shall be certified to the city clerk who shall cause a special tax bill therefor against the property to be prepared and to be collected by the city collector, with other taxes assessed against the property.
- (c) The tax bill, from the date of its issuance, shall be a first lien on the property until paid, and shall be prima facie evidence of the recitals therein and of its validity. No mere clerical error or technicality in the tax bill, or in the proceedings leading up to the issuance, shall be a defense thereto.
- (d) Each special tax bill shall be issued by the city clerk and delivered to the city collector on or before the first day of June of each year. Such tax bills, if not paid when due, shall bear interest at the rate of eight (8) percent per annum.

(Ord. No. 97-2922, § 1, 7-15-97)

State Law reference— Similar provisions, RSMo 71.285.

Chapter 47 - VEHICLES FOR HIRE^[1]

Footnotes:

--- (1) ---

Cross reference— *Traffic and motor vehicles, Ch. 44.*

ARTICLE I. - IN GENERAL

Secs. 47-1—47-10. - Reserved.

ARTICLE II. - TAXICABS^[2]

Footnotes:

--- (2) ---

Cross reference— *Stopping, standing and parking of taxicabs, § 44-274(d); use of taxicab stands, § 44-275.*

Sec. 47-11. - Definition.

As used in this article, the term "taxicab" shall mean every motor vehicle having a seating capacity of one (1) or more persons, which is offered for or engaged in conveying passengers for hire, within the city, or from a point within the city to a point outside of the city, and when the charge for carrying is made on the basis of the time consumed or the distance traveled from one (1) designated place to another designated place.

(Code 1973, § 36.01)

Sec. 47-12. - Business license—Generally.

- (a) *Required.* No person shall operate a taxicab business without a license therefor authorized by the council.
- (b) *Term.* The license permit required by this section shall be in effect from the date of issuance until April 30 of the following year.
- (c) *Conditions.* Before granting a taxicab license, the council shall find that the financial responsibility, character and general fitness of the applicant, and of the employees thereof, or of the officers and directors thereof, are such as to command the confidence of the community and that the granting of the license is necessary for the convenience and advantage of the community.
- (d) *Application.* An applicant for a taxicab license shall file a written application verified by the owner of the taxicabs. The application shall state the following:
 - (1) That the owner desires a permit from the city to operate taxicabs;
 - (2) The name and address of the owner and, if a corporation, also the names and addresses of the officers thereof;
 - (3) The state license number of each taxicab and the amount and holder of any mortgage on each;
 - (4) The rates to be charged;
 - (5) The names and addresses of the drivers of the taxicabs;
 - (6) Facts showing that the granting of the license will serve the convenience and necessity of the community.
- (e) *Insurance.* An applicant for a taxicab license shall produce satisfactory evidence of technical skill and carry liability insurance in the amount of one hundred thousand dollars (\$100,000.00) for each individual and two hundred thousand dollars (\$200,000.00) limit for each accident, and fifty thousand dollars (\$50,000.00) for property damage, evidence of which shall be filed with the city clerk, showing the expiration date of the same.

(Code 1973, §§ 36.02, 36.03)

Cross reference— Occupational license taxes generally, § 35-21 et seq.

Sec. 47-13. - Same—Issuance; fee.

- (a) If the council finds that an applicant for a taxicab license meets the conditions therefor in section 47-12(c) and has obtained insurance in accordance with section 47-12(e), the council shall authorize the city clerk to issue such applicant a taxicab license.
- (b) Upon the granting of the license required by this article, by the council, the applicant shall present his authorization therefor to the city clerk who shall issue an annual license and a windshield sticker upon the payment of an annual license tax of ten dollars (\$10.00) per taxicab, or five dollars (\$5.00) per taxicab after September 30. The license and sticker shall not be transferable or assignable.

(Code 1973, § 36.04)

Sec. 47-14. - Display of license and sticker.

A copy of a taxicab license shall at all times be posted in the taxicab to which it applies and within view of the passengers carried therein. The windshield sticker shall be attached permanently on the lower right-hand corner of the windshield.

(Code 1973, § 36.05)

- (a) *Required, application.* No person shall drive a taxicab without a permit therefor. Application shall be made to the city clerk for such license, at which time applicant must present his chauffeur's license and fill out upon a blank furnished by the city clerk, a statement of his full name, residence, sex, age, race, weight, whether previously licensed as a chauffeur and whether such license has ever been revoked and for what cause.
- (b) *Photographs.* Every person applying for a taxicab driver's permit shall furnish to the city clerk two (2) recent photographs of himself of a size which may be permanently attached to the license, one (1) of which shall be attached to the permit and the other filed with the city clerk.
- (c) *Issuance, term, fee.* If the city clerk finds that an applicant for a taxicab driver's permit possesses a valid chauffeur's license, and has never had any such license revoked, the clerk shall issue to the applicant a permit which shall be of such a form as to contain the signature and picture of the applicant. This license shall be valid to April 30 next following its issuance. The license fee shall be one dollar (\$1.00).
- (d) *Posting permit.* Each taxicab driver shall post his permit in the taxicab operated by him so that it may be easily seen both day and night by passengers in the rear seat.

(Code 1973, § 36.06)

Sec. 47-16. - Revocation of licenses or permits.

The council may, after notice and a hearing, revoke any license or permit granted under this article for any violation of any of the terms of this article or upon finding that any conditions exist which if such had existed at the time of the granting of the permit or the license, would have been grounds for the refusal thereof.

(Code 1973, § 36.07)

Sec. 47-17. - Rates to be posted.

The person holding a taxicab license shall post the rates of fare on the rear of the front seat and within plain view of the passengers in the rear seat.

(Code 1973, § 36.10)

Sec. 47-18. - Taximeter.

Every taxicab shall be equipped with an automatic meter for the purpose of measuring the fare to be charged, except where a flat charge is provided. The face of the meter shall be in plain view of the passengers.

(Code 1973, § 36.09)

Sec. 47-19. - Operation and inspections.

The city manager shall adopt such regulations, not inconsistent with the provisions of this article for the operation and inspection of taxicabs and for the qualifications of the drivers as may be reasonable and as will best conserve the interest of the city and the safety of the general public. No person shall fail to comply with such regulations.

(Code 1973, § 36.08)

Chapter 49 - ZONING^[1]

Footnotes:

Editor's note—Pursuant to the city's request, Ch. 49, Zoning, has been deleted from the Code; however, such provisions, as amended and reaffirmed on Nov. 24, 1992, are on file and available for inspection in the offices of the city clerk and public works department.

CODE COMPARATIVE TABLE 1954 CHARTER

This table gives the location within this Code of those sections of the 1954 Charter included herein.

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CODE COMPARATIVE TABLE 1973 CODE

This table gives the location within this Code of those sections of the 1973 Code, as supplemented through August 26, 1983, which are included herein. Sections of the 1973 Code, as supplemented, not listed herein have been omitted as repealed, superseded, or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

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CODE COMPARATIVE TABLE ORDINANCES

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88-2262	2- <u>9-88</u>	1	10-27
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88-2266	2-23-88	1	3-27(12)
88-2267	2-23-88	1	3-34(d)
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88-2269	3- 8-88	1	3-70(c)
88-2270	3- 8-88	1	6-43(120.1)
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88-2284	5-24-88	1	30-11
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88-2306	8- <u>9-88</u>	1	28-512
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88-2318	10-11-88	1	28-507
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88-2321	10-25-88	1	28-508
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89-2341	3-14-89	1	32-5.58
89-2342	3-14-89	1	32-6.58
89-2343	3-14-89	1	32-7.58
89-2344	3-14-89	1	32-8.58
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89-2346	3-14-89	1	32-10.57
89-2347	3-14-89	1	32-11.75
89-2348	3-14-89	1	32-5.42
89-2349	3-14-89	1	32-6.42
89-2350	3-14-89	1	6-133(h)
89-2361	5-23-89	1	28-511

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89-2364	6-13-89	1	32-7.42
89-2365	6-13-89	1	32-8.42
89-2366	6-13-89	1	32-9.42
89-2367	6-13-89	1	32-10.42
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89-2369	6-27-89	1	28-512
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90-2398	1-23-90	1 Rpld	<u>2-4</u>
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90-2437	10-23-90	1	32-6.42
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90-2439	10-23-90	1	32-8.42
90-2440	10-23-90	1	32-9.42
90-2441	10-23-90	1	30-27
90-2442	11-13-90	1	32-22.5
90-2444	11-13-90	1	30-26
90-2447	12-18-90	1	32-2.0
90-2448	12-18-90	1	32-2.0
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90-2450	12-18-90	1	32-12.376
90-2451	12-18-90	1	6-42(c)
90-2452	1- 8-91	1	10-28
90-2453	1- 8-91	1 Rpld	32-4.5
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91-2459	2-26-91	1	19-67(7)
91-2464	3-26-91	1	32-13.4

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91-2474	5-28-91	1	28-506
91-2475	5-28-91	1	28-506
91-2483	6-25-91	1	28-504
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		Added	23-29(a)
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93-2656	8-24-93	1	32-13.0(13.39.3)
93-2657	8-24-93	1	32-15.0(15.4)
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93-2662	8-24-93	1	32-16.0(16.2)
93-2663	8-24-93	1	32-2.0
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94-2741	10-25-94	1 Rpld	28-402
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94-2748	11-22-94	1	28-506
94-2749	11-22-94	1	28-512
94-2750	11-22-94	1	28-514
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96-2847	6-25-96	1	<u>2-599</u> (d), (2)
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96-2854	9-10-96	1 Added	<u>2-262</u> (d)
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97-2893	2-25-97	1	28-512
97-2895	2-25-97	1	18-97(1)a h

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97-2946	10-28-97	1 Added	<u>18-23</u>
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CODE COMPARATIVE TABLE

This table gives the location within this Code of those ordinances adopted since the 1997 Republication, as updated through November 10, 1997. Ordinances not listed herein have been omitted as repealed, superseded, or not of a general and permanent nature.

Ordinance Number	Adoption Date	Section	Section this Code
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97-2905	5-27-97	1(27.61—	
		27.69) Added	<u>42-63</u> —42-70.1
97-2967	<u>12- 9-97</u>	1 Added	<u>13-73</u>
97-2968	<u>12- 9-97</u>	1 Added	<u>29-234</u> —29-239.1
98-2971	1-13-98	1	<u>44-504</u>
98-2972	1-13-98	1 Added	<u>33-22</u> (c)
98-2977	3-24-98	1	Adopts Repub., pg. xi
98-2978	4-21-98	1	<u>2-601</u> (b)
98-2979	4-28-98	1	<u>44-280</u>
98-2980	4-28-98	1	<u>44-502</u>
98-2983	5-21-98	1	<u>44-508</u>
98-2986	6-23-98	1	<u>44-402</u>
98-2989	7-28-98	1 Added	<u>6-10</u> (b)(4)
98-2990	7-28-98	1	<u>44-512</u>
98-2991	7-28-98	1	<u>44-513</u>
98-2995	8-25-98	1 Added	<u>4-27</u> (13)
98-3001	9-22-98	1	<u>37-2</u> (b)
98-3002	9-22-98	1	<u>37-32</u>
98-3003	9-22-98	1 Rpld	<u>37-2</u> (a)
		Rltd	<u>37-2</u> (b)—(d)
		as	<u>37-2</u> (a)—(c)
98-3004	9-22-98	1	<u>37-34</u> (a)

98-3006	9-22-98	1	<u>37-41</u>
98-3007	9-22-98	1 Rpld	<u>37-44</u> <u>37-45</u>
98-3010	10-27-98	1	<u>2-381(b)</u>
98-3012	11-10-98	1	<u>44-509</u>
98-3013	11-24-98	1	<u>44-512</u>
98-3017	<u>12-</u> 8-98	1	<u>44-514</u>
99-3020	1-12-99	1	<u>42-63, 42-64,</u> <u>42-66, 42-67</u>
99-3025	3- <u>9-99</u>	1 Added	<u>44-516</u>
99-3031	5-25-99	1	<u>36-2</u>
		2	<u>36-14(d)</u>
99-3032	6- 8-99	1	<u>7-116—7-118</u>
99-3035	6-22-99	1 Added	<u>45-5</u>
99-3036	7-27-99	1 Added	<u>44-95</u>
99-3038	8-24-99	1	<u>7-101—7-103</u>
99-3044	9-28-99	1 Added	<u>44-96</u>
99-3045	9-28-99	1 Added	<u>44-173(c)</u>
99-3046	9-28-99	1	<u>1-15</u>
99-3047	9-28-99	1	<u>7-66</u>
99-3048	10-26-99	1	<u>36-2</u>
99-3049	10-26-99	1	<u>36-5(12)</u>
99-3050	10-26-99	1 Added	<u>36-7(a)(5)</u>
99-3051	10-26-99	1	36-7(b)(2)d.

		Rpld	<u>36-7(b)(2)e.</u>
99-3052	10-26-99	1 Added	<u>36-7(e)</u>
99-3053	10-26-99	1	<u>36-9</u>
99-3054	10-26-99	1	<u>44-512</u>
99-3055	10-26-99	1	<u>44-513</u>
99-3056	10-26-99	1	<u>44-508</u>
99-3057	10-26-99	1	<u>44-512</u>
99-3058	10-26-99	1	<u>44-509</u>
99-3059	10-26-99	1	<u>44-507</u>
99-3060	11- <u>9-99</u>	1 Added	<u>13-70(a)(9)</u>
99-3062	11- <u>9-99</u>	1	<u>2-23</u>
99-3066A	12-14-99	1	<u>2-601(a), (b)</u>
99-3067	12-14-99	1	<u>2-599(c)</u>
99-3067A	12-14-99	1	<u>2-596</u>
2000-3070	1-25-00	1 Added	<u>2-599(e)</u>
2000-3071	2- 8-00	1 Rpld	<u>44-317—44-319,</u>
		Added	<u>44-317—44-320</u>
2000-3075	3-28-00	1	<u>36-8</u>
2000-3075	3-28-00	1 Added	<u>7-118(106.5.2.1)</u>
2000-3096	10-10-00	1	<u>4-38</u>
2000-3098	12-12-00	1 Added	<u>29-92(6)</u>
2001-3106	3-27-01	1 Added	19-32(d), (e)
2001-3111	3-27-01	1 Added	19-35(1)—(5)

2001-3112	4-17-01	1 Added	<u>30-66(a)(4)</u>
2001-3121	6-26-01	1	19-32(f)
2001-3123	6-26-01	1	<u>42-59</u>
2001-3124	6-26-01	1	<u>36-11(5)</u>
2001-3125	6- 2-01	1	<u>7-43</u>
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			<u>7-66</u>
			<u>7-103</u>
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			<u>7-135.1</u>
			<u>7-145.2</u>
			<u>7-218</u>
			<u>7-243</u>
2001-3126	7-24-01	1 Added	<u>2-263</u>
2001-3128	9-11-01	1	<u>13-70</u>
2001-3129	9-11-01	1	<u>36-2</u>
			<u>36-7(f)</u>
2001-3130	9-11-01	1	<u>44-108(a)</u>
2001-3131	9-11-01	1 Added	<u>44-111</u>
2001-3134	10-23-01	1 Added	<u>40-34</u>
2001-3138	11-27-01	1	<u>40-34(e)</u>
2002-3140	3-12-02	1	<u>30-66(a)(4)</u>
2002-3144	6-11-02	1	<u>44-514</u>

2002-3145	6-11-02	1	<u>44-506</u>
2002-3146	6-11-02	1	<u>44-507</u>
2002-3149	6-25-02	1	<u>44-508</u>
2002-3160	9-10-02	1	<u>2-596</u>
2002-3164	11-26-02	1	<u>44-504</u>
2003-3166	1-28-03	1	<u>44-514</u>
2003-3167	1-28-03	1	<u>1-20</u>
2003-3168	1-28-03	1 Added	<u>30-7</u>
			<u>30-39</u>
			<u>30-55(a)</u>
			<u>30-66(1)(a)—(c), (2)</u>
			<u>30-67(5), (6)</u>
			<u>30-69</u>
			<u>30-72(b)</u>
			<u>30-80—30-82</u>
			<u>44-512</u>
2003-3169	2-25-03	1	<u>30-66(a)(4)</u>
2003-3170	3-11-03	1 Added	<u>7-145.21—7-145.25</u>
2003-3175	4-22-03	1	<u>42-56</u>
			<u>42-59</u>
2003-3176	4-22-03	1 Added	<u>28-2(10)</u>
2003-3178	5- 7-03	1 Added	<u>7-145.2.1</u>
2003-3194	9-23-03	1 Rpld	<u>4-55, 4-70</u>

		Added	<u>4-55, 4-70</u>
2003-3195	10-28-03	1 Added	<u>29-136.5</u>
2003-3196	10-28-03	1 Added	<u>29-136.6</u>
2004-3202	1-27-04		<u>29-92(4)</u>
2004-3209	3-30-04	1	<u>30-66(a)(4)</u>
2004-3210	3-30-04	1 Added	<u>2-370—2-372</u>
2004-3227	9-28-04	1 Rpld	<u>2-27</u>
		Added	<u>2-27—2-27.21</u>
2005-3229	2- 8-05	1 Added	<u>29-38</u>
2005-3235	3-22-05	1 Added	<u>29-39</u>
2005-3246	9-13-05	1 Added	<u>40-7</u>
		2 Added	<u>13-29(b)(4)</u>
		Rnbd	<u>13-29(b)(4)</u>
		as	<u>13-29(b)(5)</u>
2005-3247	9-13-05	1	<u>29-234, 29-235</u>
			<u>29-237</u>
2005-3251	9-27-05	1 Added	<u>40-35</u>
2005-3252	10-11-05	1 Added	<u>6-6</u>
		Rnbd	<u>6-6—6-21</u>
		as	<u>6-7—6-22</u>
		2 Added	<u>28-2(11)</u>
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2005-3253	10-25-05	1 Added	<u>29-24</u>

2006-3257	1-24-06	1 Rnbd	<u>Ch. 7</u> , Art. VII, Divs. 1—3
		as	<u>Ch. 7</u> , Art. VII, Divs. 2—4
		2 Added	<u>7-120</u> —7-126
		3	<u>42-57</u> —42-62
		4 Added	<u>25-1, 25-15</u> —25-27
2006-3262	3-14-06	1	<u>28-6</u> (d)
2006-3267	4-25-06	2	<u>42-45</u>
2006-3270	6-13-06	1	<u>25-20</u> (c)
2006-3274	6-27-06	1	<u>2-596</u>
		2	<u>2-599</u> (c)
		3	<u>2-602</u>
2006-3278	7-25-06	1 Added	<u>13-70</u> (a)(11)
2006-3286	9-26-06	1—10 Added	<u>2-416</u> —2-425
2006-3287	10-24-06	1	<u>42-45</u>
2007-3294	1- 9-07	1	<u>29-82</u>
		2	<u>29-83</u>
2007-3295	1- 9-07	1	<u>28-6</u> (d)
2007-3298	2-27-07	1	<u>37-25</u>
		2 Added	<u>37-29</u>
2007-3302	2-27-07	1	<u>Ch. 3</u> (tit.)
		2	<u>Ch. 3</u> , Arts. I, II(tit.)
		3	<u>3-45</u>

		4 Added	<u>3-20—3-22</u>
2007-3304	3-27-07	1	<u>30-66(a)(4)</u>
2007-3306	4-17-07	1	<u>3-20</u>
2007-3308	5- 8-07	1	<u>7-236</u>
		2 Added	<u>7-237(b)(4)</u>
2007-3324	8-28-07	1	<u>2-381</u>
2008-3332	1-22-08	1	<u>2-26(a)</u>
2008-3333	1-22-08	1 Added	<u>29-40</u>
2008-3342	2-26-08	1	<u>6-1</u>
		2	<u>6-22</u>
2008-3346	3-11-08	1	<u>30-66(a)(4)</u>
2008-3348	3-11-08	1	<u>44-510</u>
2008-3349	3-11-08	1 Rnbd	<u>Ch. 7, Art. XI</u>
		as	<u>Ch. 7, Art. XII</u>
		Added	<u>7-225</u>
2008-3351	4-15-08	1 Added	<u>41-69</u>
		2	<u>41-77</u>
		4 Added	<u>7-1</u>
2008-3353	4-22-08	1 Added	<u>29-93</u>
		2 Added	<u>30-8</u>
2008-3361	7-22-08	1 Added	<u>28-15</u>
2008-3366	8-26-08	1 Added	<u>29-66</u>
		2 Added	<u>25-30, 25-31</u>

2008-3372	9-30-08	1 Rpld	19-31—19-35
2008-3373	10-14-08	1	<u>4-1</u>
		2 Rpld	<u>4-28</u>
		Added	<u>4-28</u>
		3	<u>4-34(a)</u>
		4	<u>4-36</u>
		5	<u>4-52</u>
		6 Rpld	<u>4-68</u>
2008-3375	11-18-08	1 Added	<u>40-8</u>
2009-3378	1-13-09	1	<u>36-2</u>
2009-3381	2-24-09	1	<u>44-48(b)(6)</u>
		2 Added	<u>44-50</u>
2009-3382	2-24-09	1 Added	<u>2-4</u>
		2	<u>37-1</u>
		3 Added	<u>37-5</u>
		4 Added	<u>7-44</u>
2009-3390	4-21-09	1	<u>44-85</u>
2009-3393	4-28-09	1	<u>42-51—42-55</u>
2009-3394	4-28-09	1	<u>42-56</u>
			<u>42-59</u>
2009-3395	4-28-09	1	<u>25-15</u>
		2	<u>25-21</u>
2009-3397	5-26-09	1 Added	<u>13-70(a)(12)</u>

2009-3398	5-26-09	1	<u>13-60</u>
2009-3399	6- 9-09	1—3	<u>7-41</u> —7-43
2009-3400	6- 9-09	1—3	<u>17-56</u> —17-58
2009-3406	<u>9</u> - 8-09	1 Added	<u>44-97</u>
2009-3407	<u>9</u> - 8-09	1	<u>44-280</u>
2009-3413	10-13-09	1 Added	<u>40-60</u> —40-63
		2	<u>37-1</u>
		3 Added	<u>37-6</u>
2009-3414	11-17-09	1	<u>2-581</u> —2-584
2009-3417	<u>12</u> - 8-09	1	<u>7-133(a)</u>
		2	<u>7-237(a)(2)c.</u>
		3	<u>7-145</u>
		4	<u>7-145.1</u>
		5	<u>7-145.3</u>
2010-3424	3-23-10	1 Rnbd	<u>44-403</u>
		as	<u>44-405</u>
		2	<u>44-402</u>
		3 Added	<u>44-403</u>
2010-3425	3-23-10	1 Added	<u>44-404</u>
2010-3426	4-20-10	1	<u>29-241</u>
2010-3435	8-10-10	1	<u>34-1</u> —34-20
2010-3448	10-26-10	1 Added	<u>44-234</u>
2010-3449	11- 9-10	2 Added	<u>42-46</u>

2010-3450	11- 9-10	1	<u>7-145.1</u>
2011-3464	5-10-11	1	<u>13-63</u>
2012-3485	3-27-12	1	<u>7-43</u>
2012-3486	3-27-12	1	<u>44-66(f), (g)</u>
2012-3494	6-26-12	1 Added	<u>44-406</u>
2012-3495	6-26-12	1	<u>44-364</u>
2012-3497	8-28-12	1	<u>21-1—21-9</u>
			<u>21-31—21-33</u>
2012-3504	10-16-12	1, 2	<u>29-135</u>
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